

DCRAC Testimony

On behalf of the Delaware Community Reinvestment Action Council, Inc., I want to thank Commissioner Robert Glen for this opportunity to present our request for a conditional approval to the proposal, by M&T bank to acquire WTC and its affiliates. Usually, we ask for an outright denial. But, in our 24 years of commenting on bank mergers, regulators have yet to deny a merger application, even when we raised concerns over “too big to fail” or the “safety and soundness”. My name is Rashmi Rangan. Today, my testimony will focus on the four criteria that the Commissioner must consider in this public hearing in determining whether the acquisition “will serve the public convenience and advantage.”

Mr. Commissioner, the statute empowers you to disapprove this application if you determine that such acquisition will not serve the public convenience and advantage or to “require as a condition of such approval that the out-of-state bank holding company enter into a cooperative agreement binding it to such special terms and conditions regarding its operations and its maintenance and preservation of the capital and assets in Delaware of the bank as the Commissioner shall deem to be necessary to assure that the acquisition serves the public convenience and advantage.” *5 Del. C. sec. 844(c)*.

Today, we present testimony that supports our request for you to exercise your broad powers of discretion in determining that public convenience and needs include jobs, consumer friendly lending environment, eradication of predatory lending practices, etc. Today, we want to persuade you to take advantage of the legal authority and condition the approval of this application on a cooperative agreement which binds the bank in the future.

We incorporate by reference M&T’s responses to and DCRAC’s comments to the Federal Reserve. We ask you obtain and consider the so-called “Confidential” Exhibits referred to in the M&T response to our comments. Now we turn to the four articulated factors that must be considered in the context of public convenience and advantage.

WHETHER THE ACQUISITION WILL, BASED UPON THE MANAGERIAL AND FINANCIAL RESOURCES, FINANCIAL HISTORY AND BUSINESS PLAN OF

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THE APPLICANT, ADVERSELY AFFECT THE SAFE AND SOUND OPERATION OF THE BANK OR ANY OTHER DELAWARE BANK OWNED OR CONTROLLED BY THE TARGET DELAWARE BANK;

M&T Bank does not have a substantial presence here in Delaware. Frankly, we do not know M&T Bank. We do not know the business plan for Delaware post merger. What we have read and heard about M&T and its CEO Robert Wilmers, gives us some comfort. Wilmers is respected in Buffalo for his ability to create jobs (we need jobs), his aggressive support of business interests (we need businesses to grow because they can help us out of this economic crisis), and his philanthropic endeavors (which we desperately need in Delaware where more than 35% of Delaware nonprofits operated in the red each year from 2002-2007; only eight private foundations in Delaware made significant investments in Delaware nonprofits in 2007; where documented corporate giving from Delaware-based entities comprised less than 2% of the state's organized philanthropy in 2007; where though Delaware incomes are 3% higher than the national average, Delaware donors, on average, give 9% less than the national average; and where Delaware lacks the strong philanthropic infrastructure to strengthen the sector and provide much-needed community leadership). We therefore ask for a firm commitment from M&T to create jobs in Delaware, support our businesses, and be a philanthropic leader in Delaware.

We are not un-concerned. M&T's exposure to homebuilders in the Mid-Atlantic region is growing, especially with this acquisition.

WHETHER THE ACQUISITION WILL ADVERSELY AFFECT THE QUANTITY OR QUALITY OF BANKING SERVICES AVAILABLE TO 1 OR MORE COMMUNITIES SERVED BY THE BANK PRIOR TO THE ACQUISITION;

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This merger gives M&T the top deposit share and a leading commercial lending position in Delaware. M&T promises to serve Delaware at least as well as Wilmington Trust did. We argue, that any one could do as well as Wilmington Trust did. It is aptly stated that Wilmington Trust's downfall was its hubris. Relative to CRA performance in Delaware, Wilmington Trust was evaluated by the the Federal Reserve in 2009 and it received an Outstanding rating; the performance evaluation demonstrates how little Wilmington Trust has done in Delaware. Especially, when we compare the CRA performance evaluations in Maryland, Pennsylvania, and Florida of the sister company Wilmington Trust FSB (WTFSB). WTC had total assets and fiduciary, custody and safekeeping accounts totaling \$10.0 billion and \$129.5 billion respectively, as of March 31, 2009, while WTFSB had \$2.0 billion in assets and \$30.1 billion in fiduciary assets. Over a two year period, WTC made 695,000 (.01% of assets) in qualified grants and donations while WTFSB made 373,122 (.02% of assets) in grants .

We applaud M&T for meeting with DCRAC after our comments to the Federal Reserve in opposition to this merger. Wilmington Trust did not live up to the expectations of the community as a corporate leader. According to the press releases, M&T will continue Wilmington Trust's rich tradition of involvement in its Delaware communities and maintain its existing level of charitable activities. This is not acceptable. We are asking for M&T to be a CRA leader in our community. We want M&T to invest in Delaware in the same manner as they have done in the Jefferson Avenue Marketplace Plaza. We applaud the fact that M&T stayed largely out of the feeding frenzy in the mortgage market. We are thankful that they immediately responded to the defaults in their Alt A portfolio with an aggressive loan modification program.

WHETHER, AS A RESULT OF A PRIOR OR SIMULTANEOUS ACQUISITION OF ANOTHER BANK, THE ACQUISITION WILL RESULT IN AN UNDUE CONCENTRATION OF RESOURCES OR A SUBSTANTIAL LESSENING OF COMPETITION IN DELAWARE;

Given that M&T has only one branch in Sussex county, although anti-competitive concerns do not arise, we are concerned with the lessening of competition for the lower income

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community's credit needs. During recent meetings with our federal congressional delegation, we heard that M&T was citing Dodd Frank bill as the reason why it must lay off 721 employees. Many financial institutions are already using interchange fee regulation as the reason for shrinking their services to the lower income community. This type of continued irresponsible behavior by the financial sector that enjoys its stability to Troubled Assets Relief Program is unacceptable.

In December 2008, M&T took \$600 million in TARP money. When it bought Provident Bankshares, it gained more TARP funds. With the purchase of Wilmington Trust, M&T will gain another \$330 million in TARP funds. While M&T is receiving TARP bail out funds, how is the community benefitted?

We need M&T to pledge to serve the low- and moderate-income community through affordable products and services.

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**WHETHER THE ACQUISITION WILL FOSTER ECONOMIC DEVELOPMENT
AND THE FINANCING OF BUSINESS ENTERPRISES TO THE END THAT
EMPLOYMENT OPPORTUNITIES WILL EITHER BE INCREASED OR, WHERE
THERE IS A PROSPECT FOR A REDUCTION, RETAINED.**

Soon after the merger was announced, M&T assured Delaware that there will be no jobs lost. But, we have heard that 721 Delawareans will lose their jobs. After Bank of America acquired MBNA, we saw a series of layoffs.

M&T Chairman and CEO Robert Wilmers recently spoke to us at the Chamber of Commerce dinner. He says M&T will be adding 40 jobs at its small operations center in Millsboro. He has also told Governor Jack Markell that M&T will be building a back-up data center in Delaware and will invest \$7 million to \$10 million in that project. We would like to see a firmer commitment with timelines and goals.

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DCRAC URGES THE BANK COMMISSIONER TO REQUIRE M&T TO ENTER INTO A COOPERATIVE AGREEMENT.

We offer the following for consideration in this cooperative agreement:

WE NEED M&T TO BE THE PHILANTHROPIC LEADER IN OUR COMMUNITY¹

- Delaware needs philanthropic leadership willing to step forward and give initial voice to the sector, champion the need for this infrastructure, and financially seed its construction.
- Delaware needs a strong donors forum, one that includes active participation by all of the state's leading foundations, that has staff adequate to support its work, and that offers a regular agenda of educational and networking activities designed to enrich, enlighten and encourage organized philanthropy in Delaware.
- Delaware needs a more vigorous, sophisticated nonprofit support organization that focuses on civic engagement of nonprofits, advocacy and constituent education as much as on skill-building within the sector.
- Delaware needs a partnership between government and the nonprofit sector, to maximize effective use of resources and ensure a high quality of life for all.
- Through these changes, Delaware can create a healthy nonprofit marketplace, where efforts can be coordinated and services aligned to most effectively meet community needs.

¹ Philanthrop in the First State: Delaware's Nonprofits, Individuals, Donors, and Grantmaking Organizations, Mary Kress Littlepage, KBT & Associates, 2009

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WE NEED M&T TO BE A LEADER IN HOUSING DELAWAREANS

- Delaware needs a loan commitment for single-family housing loans, for purchase or for home improvement, especially in light of the pendulum swing toward 20% downpayment which will literally place homeownership out of reach for many modest income families.
- Delaware needs loans for multifamily low- and moderate-income and minority neighborhoods.
- Delaware needs designated funds for community development projects taken on by nonprofit and minority housing developers.
- Delaware needs loans for Housing Cooperatives, Land Trusts, and Mobile Homes/Manufactured Housing purchase and for rehabilitating mixed-use property in low- and moderate-income areas.
- Delaware's Community Development Corporations need non recourse loans.
- Delaware needs greater participation in loan pools, consortiums, and public programs that house Delawareans.
- Delaware needs purchasers of Delaware State Housing Authority issued tax-exempt bonds to finance affordable homeownership and housing projects.
- Delaware needs investments in low-income housing tax credits.
- Delaware needs financial and technical support of homeownership counseling—both pre-purchase and post-purchase as well as foreclosure prevention.
- Delaware's LMI borrowers (whether entering the system through prime or subprime channels) need housing counseling through members of Delaware Federation of Housing Counselors before they become homeowners.

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- To those homeowners experiencing economic hardship, Delaware needs to automate modifications.
- Delaware needs a reduction in Bank owned-Real Estate inventory.

WE NEED M&T TO LEAD SMALL BUSINESS AND ECONOMIC DEVELOPMENT IN DELAWARE

- Delaware needs true small business loans, not home equity loans disguised as small business loans.
- Delaware needs loans to small businesses, small farms, women, minority, and disabled-owned businesses.
- Delaware needs a thriving micro-loan industry.
- Delaware needs charitable contributions to help organizations that promote economic development, financial literacy, affordable housing, environmental preservation and health and human services for low- and moderate - income residents.
- Delaware needs participation in loan pools.
- Delaware needs financial and technical support of small business counseling and technical assistance.
- Delaware needs Consumer loans (auto loans, personal loans, small loans)

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WE NEED M&T TO COMMIT TO BUILD COMMUNITY CAPACITY

- We need M&T to commit to a grant-making in Delaware that is 1% of its assets in Delaware. M&T can and should set standards for other financial institutions to follow.
- Delaware needs support of Community Development Credit Unions.
- Delaware needs support of Community Development Lending Institutions
- Delaware needs affordable loans and lines of credits to CDCs, CDFIS, etc.
- Delaware needs grants to community-based organizations
- Delaware needs Lifeline checking offers accounts with low, or no, fees and minimum balances.
- Delaware needs participation in Individual Development Accounts (IDAs).
- Delawareans need to cash their government checks at area banks.
- Delaware needs branch offices and mini-branches in low-income areas to at least the same extent as the general population.
- Delaware needs to aggressively market available resources and services through community groups.
- Delaware needs hands-on volunteerism from its corporate sector.

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IN CONCLUSION

We urge you to take some time to develop a cooperative agreement that benefits the convenience and advantage of Delawareans before you rule on this application. Absent a cooperative agreement, we need to give M&T enough time to make a commitment to Delaware that demonstrates their intent to be a strong corporate leader in Delaware.

If a cooperative agreement cannot be reached, we ask that you deny this proposal. We request that the comment period remain open during deliberations and the public be invited to comment on the cooperative agreement.

Thank you for this opportunity to share our plans for this proposal and suggest creative ways to make this work for Delaware.