

**OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF NEW YORK**

In the matter of:

MEMORANDUM OF AGREEMENT

KeyBank National Association

WHEREAS, the Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to Executive Law § 63(12) and General Business Law Article 22-A into KeyBank National Association’s advertisement and operation of the “KeyBank Plus” check cashing program. This Memorandum of Agreement (the “Agreement” or “MOA”) contains the relief agreed to by the OAG and Key Bank National Association whether acting through its respective directors, officers, employees, representatives, agents, affiliates, or subsidiaries (“KeyBank,” and, together with the OAG, the “Parties”).

WHEREAS, KeyBank is the principal subsidiary of KeyCorp, a bank holding company.

WHEREAS, in February 2004, KeyBank launched a program known as KeyBank Plus (“KBP”). KBP was intended to offer those who did not have a deposit account with KeyBank a method to cash government and payroll checks at low cost. KBP was also intended to offer financial education and other services to low to moderate income (“LMI”) consumers.

WHEREAS, KBP was advertised by KeyBank as a service to assist the underbanked and unbanked in LMI communities.

WHEREAS, in 2016 KeyCorp acquired First Niagara Financial Group, Inc., and its subsidiary bank, First Niagara Bank, National Association (collectively, “First Niagara”), which had been headquartered in Buffalo, New York.

WHEREAS, some community groups in Western New York objected to the merger of KeyBank and First Niagara. KeyBank specifically cited KBP to the Federal Reserve Board in seeking approval for the merger and KBP was cited in the Federal Reserve Board order approving the merger.

WHEREAS, KeyBank's 2017 Community Benefits Plan included an addendum in which KeyBank stated:

We commit to expanding our KeyBank Plus suite of products and services to all the LMI Branches in the Buffalo-Niagara Falls MSA. KeyBank will continue to work to improve the marketing and informational materials for these products and services. This will include product forums, flyers, neighborhood based ads and community outreach to centers of influence.

WHEREAS, in January 2018 the Buffalo News ran a story noting that KBP was introduced by KeyBank at 18 Buffalo-area branches.

WHEREAS, in early 2018, and again in 2019, the Buffalo Niagara Community Reinvestment Coalition ("BNCRC") conducted testing of the availability of KBP. These efforts were spearheaded by the Western New York Law Center ("WNYLC"), a member of the BNCRC. This testing found that KBP was not available to the testers who attempted to use the program.

WHEREAS, the BNCRC raised concerns regarding the lack of availability of KBP in branches where it was advertised.

WHEREAS, from late 2019 into early 2020, the OAG conducted testing of the availability of KBP in the Buffalo area as well as every market in New York State advertised by KeyBank to offer KBP.

WHEREAS, the OAG conducted testing of KBP in Buffalo, Rochester, Syracuse, Albany, Watertown, Plattsburg and Westchester County. The OAG was unable to cash a government check using KBP approximately eighty percent of the time.

WHEREAS, since the program was implemented in the Buffalo-Niagara area in 2018, KBP has been used to cash approximately 150 checks.

WHEREAS, changing market conditions and competition from non-bank entities engaged in the business of check cashing have caused doubt about the future viability of KBP as a competitive check cashing option for LMI consumers.

WHEREAS, KeyBank has developed other programs intended to benefit LMI consumers, including programs focused on increasing homeownership among LMI consumers. KeyBank desires to implement new programs in this area designed specifically to aid LMI homebuyers in Western New York and other regions of New York where KeyBank operates.

WHEREAS, the OAG believes that KeyBank's advertisements regarding KBP were false and deceptive, and therefore in violation of Executive Law § 63(12) and General Business Law Article 22-A, and KeyBank neither admits nor denies that its actions violated these statutory provisions, but agrees to the terms of this Agreement to resolve this matter.

WHEREAS, the OAG finds the relief and agreements contained in this Agreement appropriate and in the public interest.

NOW, THEREFORE, IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

1. KeyBank shall not engage, or attempt to engage, in conduct in violation of General Business Law Article 22-A.
2. KeyBank's Agreement to Make Loans to LMI New York Homebuyers
 - a. KeyBank will apply to become a participating lender in State of New York Mortgage Agency ("SONYMA") mortgage lending program.
 - i. KeyBank will take all administrative steps and implement all technology upgrades required to become a participating lender with SONYMA.
 - ii. KeyBank will submit its application to SONYMA and endeavor to become a participating lender by September 1, 2021.
 - iii. Once accepted as a participating lender with SONYMA, KeyBank will take all necessary actions to ensure that this status is maintained for five years.
 - b. KeyBank will increase its lending commitment for LMI homebuyers in New York. KeyBank agrees to originate \$145 million in mortgage loans to Eligible LMI Borrowers in New York over the course of five years following the effective date of this Agreement.
 - i. KeyBank will seek to lend approximately 50% of these funds to borrowers purchasing property located in Western New York¹ and the remaining 50% to borrowers purchasing property in other regions of New York where KeyBank operates.

¹ For the purposes of this Agreement, Western New York means the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates.

- ii. KeyBank agrees to waive its lender origination fees for all mortgage loans made to Eligible LMI Borrowers in fulfillment of its obligations under this Agreement. KeyBank is not obligated to waive any fees or closing costs charged by non-affiliated third parties.
- iii. An “Eligible LMI Borrower” is a natural person who:
 - 1. Meets all qualifications of the applicable lending program;
 - 2. Meets KeyBank’s underwriting criteria for the applicable lending program;
 - 3. Is purchasing a property to serve as their primary residence; and
 - 4. Has a household income of less than 80% of the area median income (“AMI”) for the county in which home to be purchased is located, based on AMI data provided by the New York State Division of Housing and Community Renewal.
- iv. To the extent that KeyBank is unable to meet its lending target of \$29 million in a particular year, KeyBank will endeavor to increase the volume of its lending in subsequent years to achieve the total commitment of \$145 million over the course of five years that it has made pursuant to this Agreement.
- v. If after five years, KeyBank has not made \$145 million in mortgage loans to Eligible LMI Borrowers pursuant to its commitment under this Agreement, KeyBank shall be required to maintain this commitment for each subsequent year until this target has been met, and such target shall

increase each year by 3% of the total remaining unmet commitment as of the close of each calendar year.

- c. Acceptance of this Agreement by the OAG is not an approval or endorsement by OAG of any of KeyBank's policies practices or procedures, and KeyBank shall make no representation to the contrary.
3. Payment:
 - a. KeyBank shall pay \$5 million (the "Payment") to SONYMA.
 - b. KeyBank shall make the Payment within ten days of the effective date of this Agreement.
 - c. KeyBank shall make the Payment according to wire instructions provided by SONYMA.
 4. SONYMA's Intended Use of the Payment
 - a. SONYMA is a New York State public-benefit corporation with a mandate to provide affordable homeownership to LMI New Yorkers.
 - b. SONYMA intends to use the Payment received from KeyBank pursuant to this Agreement to provide down payment assistance ("DPA") to LMI homebuyers with a focus on first time homebuyers. DPA will be offered to borrowers purchasing a primary residence with priority going to those who earn below 80% of the AMI based on the location of the property.
 - c. SONYMA will make every effort to offer the DPA to communities who have historically been underserved with regard to homeownership lending, particularly New Yorkers of color. To this end, SONYMA will offer the DPA program along

with their “Give Us Credit” initiative; a program that uses alternative credit analysis to address the racial homeownership gap.

- d. SONYMA will also make every effort to offer DPA with a particular focus on LMI homebuyers in Western New York.
 - e. SONYMA intends to structure the DPA as a forgivable loan, which will be completely forgiven if the borrower remains in the purchased home for 10 years.
5. Reporting:
- a. *Periodic Compliance Reports:* KeyBank shall provide the OAG with a report detailing its compliance with the requirements set forth in this Agreement to be submitted to the OAG on an annual basis by January 15 of each year that the lending commitment described in paragraph 2 is continuing, and in any event for no less than five years following the date of this Agreement. This report shall be in writing, be signed by KeyBank’s General Counsel or the person holding the title of Executive Vice President and Head of Consumer Banking, and shall set forth in detail the manner and form of compliance with this Agreement, and shall provide, at a minimum, for each mortgage loan originated pursuant to KeyBank’s lending commitment:
 - i. Name and demographic information of borrower;
 - ii. type of mortgage;
 - iii. amount of mortgage;
 - iv. annual percentage rate of mortgage;
 - v. date mortgage was issued; and
 - vi. address of mortgaged property.

- b. In any case where the circumstances warrant, the OAG may require KeyBank to file an interim report of compliance upon thirty (30) days' notice.

MISCELLANEOUS

6. KeyBank expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Agreement, for violations of the Agreement, and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Agreement;
- b. the OAG may use statements, documents or other materials produced or provided by KeyBank prior to or after the effective date of this Agreement;
- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that KeyBank irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- d. evidence of a violation of this Agreement shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

7. If a court of competent jurisdiction determines that KeyBank has violated the Agreement, KeyBank shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Agreement, including without limitation legal fees, expenses, and court costs.

Effects of Agreement:

8. All terms and conditions of this Agreement shall continue in full force and effect on any successor, assignee, or transferee of KeyBank. KeyBank shall include any such successor, assignment or transfer agreement a provision that binds the successor, assignee or

transferee to the terms of the Agreement. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the OAG.

9. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

10. Any failure by the OAG to insist upon the strict performance by KeyBank of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Agreement to be performed by KeyBank.

Communications:

11. All notices, reports, requests, and other communications pursuant to this Agreement must reference No. 21-017, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to KeyBank, to: Eric R. Dinallo, or in his/her absence, to the person holding the title of General Counsel for KeyBank or the person holding the title of Executive Vice President and Head of Consumer Banking.

If to the OAG, to: Christopher L. Boyd, or in his absence, to the person holding the title of Deputy Attorney General for Regional Affairs.

Representations and Warranties:

12. The OAG has agreed to the terms of this Agreement based on, among other things, the representations made to the OAG by KeyBank and their counsel and the OAG's own factual investigation as set forth above. KeyBank represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by KeyBank or its counsel are later found to be inaccurate or misleading, this Agreement is voidable by the OAG in its sole discretion.

13. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Agreement has been made to or relied upon by KeyBank in agreeing to this Agreement.

14. KeyBank represents and warrants, through the signatures below, that the terms and conditions of this Agreement are duly approved. KeyBank further represents and warrants that KeyBank, by Victor B. Alexander, as the signatory to this Agreement, is a duly authorized officer acting at the direction of the Board of Directors of KeyBank.

General Principles:

15. Unless a term limit for compliance is otherwise specified within this Agreement, the obligations under this Agreement are enduring. Nothing in this Agreement shall relieve KeyBank of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

16. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that KeyBank violates this Agreement after its effective date.

17. This Agreement may not be amended except by an instrument in writing signed on behalf of the Parties to this Agreement.

18. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

19. KeyBank acknowledges that they have entered this Agreement freely and voluntarily and upon due deliberation with the advice of counsel.

20. This Agreement shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

21. The Agreement and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

22. This Agreement may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Agreement, all of which shall constitute one agreement to be valid as of the effective date of this Agreement. For purposes of this Agreement, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

23. The effective date of this Agreement shall be March 1, 2021.

LETITIA JAMES
Attorney General of the State of New York

By: Christopher L Boyd
Christopher L. Boyd, Esq.
Assistant Attorney General
Buffalo Regional Office

KeyBank

By: Eric Dinallo
Eric R. Dinallo
Debevoise & Plimpton
Outside Counsel to KeyBank National Association

By: Victor B. Alexander
Victor B. Alexander
Executive Vice President
Head of Consumer Banking
KeyBank National Association

STATE OF Ohio
COUNTY OF Cuyahoga

ss.:

On the 1 day of March in the year 2021 before me personally came Victor B. Alexander to me known, who, being by me duly sworn, did depose and say that he reside(s) in Summit Co that he is the Executive Vice President, Head of Consumer Banking of KeyBank, the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the board of directors of said corporation, and that he signed his name thereto by like authority.

Sworn to before me this
1 day of March, 2021

Henry Emanuel Santoro
NOTARY PUBLIC HENRY EMANUEL SANTORO
Notary Public, State of Ohio
My Commission Expires
February 23, 2022