



Date: 11/6/17
Submitted in Budget & Finance Committee
Council File No: 09-0234, 09-0234-53
Item No.: 4
~~Re:~~ Communication from the Public

November 6, 2017

Members of the City of Los Angeles
Budget and Finance Committee
200 N. Spring Street
Los Angeles, CA 90012

Re: Proposed Amendments to Section 20.95.1 of Chapter 5.1 of the Los Angeles Administrative Code

Dear Members of the Budget and Finance Committee:

The California Bankers Association (CBA) respectfully wishes to express concerns with the draft amendments to the City's Responsible Banking Ordinances (RBO) authored by the Los Angeles City Attorney's Office and presented to the City Council on May 11, 2017. The report, referenced in Council File No.09-0234, proposes to amend Section 20.95.1 of Chapter 5.1 of the Los Angeles Administrative Code by requiring commercial and investment banks which seek City business to disclose under penalty of perjury any pending federal, state and local government investigations into their business practices, to certify that they are in compliance with all applicable consumer protection laws.

Problematic Disclosure of Pending Investigations

Requiring the reporting of pending investigations and enforcement actions by federal, state and local governments is overly broad and creates potential compliance burdens. It is unclear for which specific types of government investigations the City would seek information for. As drafted, the potential information the City may request is voluminous and unlikely to add value to the City. Not all investigations are actionable and, more importantly, complaint-driven investigations are often found to be meritless and unlikely to result in penalties or fines. Yet the public disclosure of such information poses a serious threat to publicly traded companies when investors give greater credence to pending investigations than warranted. Furthermore, information pertaining to actionable complaints resulting in fines and penalties are already available to the City should decision makers need to access this information. Both the FDIC's and the Consumer Financial Protection Bureau's websites contain searchable database listings of enforcement actions and consent orders which allow the City access to the types of information it seeks. The websites are more readily available and are a convenient resource contrasted with a disclosure requirement imposed upon the City's commercial banking providers. If the City nevertheless believes that its commercial banks should provide disclosures relative to enforcement actions, we believe that further clarification is warranted as to the types of conduct and/or alleged violations upon which such actions are based and express recognition of some of the impediments to such disclosure (e.g., securities laws and regulatory requirements). A definition of what is intended by

"consumer financial protection laws" should be provided. Our recommendation is to define that phrase as those laws referenced in Title X of the Dodd-Frank Act.

Certification of Compliance Is Unreasonable

The proposed changes to the City's RBO require a commercial or investment bank to certify, under penalty of perjury, that the entity is in compliance with all applicable consumer financial protection laws. This proposed certification is problematic for multiple reasons. The proposed language fails to identify the relevant consumer financial protection laws to which a bank would be certifying against. This could be clarified by cross-referencing Title X of the Consumer Financial Protection Act (Dodd-Frank), which created the Consumer Financial Protection Bureau and delegated regulatory authority to it over various enumerated consumer financial protection laws.

Banks actively seek to comply with all laws, implementing processes and procedures that include employee training, auditing, escalation channels, ongoing review, etc. These processes and procedures are designed to ensure systemic compliance and are subject to ongoing review and oversight by the institutions themselves and their multiple regulators, including the Consumer Financial Protection, the Federal Reserve, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation. However, rogue acts of individual employees may still occur, notwithstanding compliance programs designed to prevent them. The true measure of an institution's commitment to compliance with the law and doing right by its customers (both consumer and non-consumer) is its responsiveness in curing these infrequent violations and addressing any resulting consumer loss. Accordingly, a certification of the existence of policies designed to foster such compliance and the bank's implementation of the same would be fairer and a matter that would be within the certifier's knowledge, in lieu of a statement under penalty of perjury that the institution (which would include all acts of individuals it employs) is currently in compliance with all of these laws.

While CBA represents the majority of banks doing business in California, there are very few institutions with the capacity to manage the volume and complexity of the City's financial needs. We urge the City Council to refrain from further limiting its options by imposing unreasonable standards.

Sincerely,



Jason Lane
VP, Government Relations

JL:dp