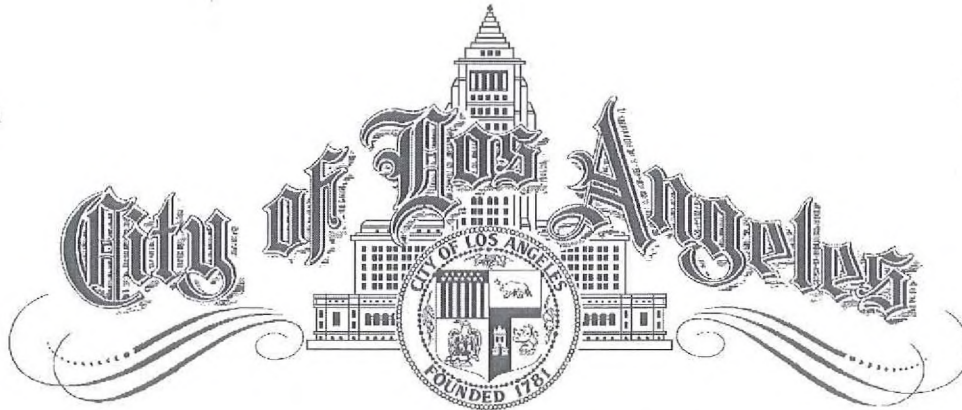


City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8100 Tel
(213) 978-8312 Fax
CTrutanich@lacity.org
www.lacity.org/atty



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R10-0379
NOV 04 2010

REPORT RE:

**AN ORDINANCE AMENDING SECTIONS 20.94 THROUGH 20.98.3 OF
CHAPTER 5.1 OF DIVISION 20 OF THE LOS ANGELES ADMINISTRATIVE CODE
TO PROVIDE FOR THE ESTABLISHMENT OF A RESPONSIBLE BANKING
INVESTMENT MONITORING PROGRAM**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 09-0234

Honorable Members:

This Office has prepared and now transmits for your consideration the attached draft ordinance approved as to form and legality. This draft ordinance amends Chapter 5.1 of the Los Angeles Administrative Code (LAAC) in order to create a Responsible Banking Reporting procedure within the City of Los Angeles. Pursuant to this ordinance, banking institutions, including bond underwriters which seek to provide banking services as well as services associated with the issuance or refinancing of bonds and commercial paper, and collection, investment and disbursement services of funds associated with securities transactions to the City of Los Angeles would be required to report annually regarding their lending activities within the City as well as, their community reinvestment goals. This would include small business loans, home mortgages, home improvement loans, community development loans, investments and other financial and charitable involvement within the City of Los Angeles.

The information provided by the Banking institutions will be evaluated by the Treasurer who will use it to create a Community Reinvestment Score for each Banking institution which submits a bid to the City for banking services as described above. The Community Reinvestment Score will be used to rank Banking institutions based on their

level of community investment in the City of Los Angeles. The Treasurer and the City Administrative Officer will be required to use a Banking institution's Community Reinvestment Score as one factor in their determination related to the City's award of banking business to individual Banking institutions.

Council Rule 38 Referral

The draft ordinance has been sent to the Treasurer pursuant to Council Rule 38 for review and comment directly to Council.

If you have any questions regarding this matter, please contact Assistant City Attorney Valentin F. Dinu at (213) 978-7780. He, or another member of this Office will be available to answer any questions you may have when you consider this matter.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

PBE:VFD:lee
Transmittal

ORDINANCE NO. _____

An ordinance amending Sections 20.94 through 20.98.3 of Article 2 of Chapter 5.1 of Division 20 of the Los Angeles Administrative Code to provide for the establishment of a Responsible Banking Investment Monitoring Program.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section. 1. Sections 20.94 through 20.98.3 of Article 2 of Chapter 5.1 of Division 20 of the Los Angeles Administrative Code are hereby amended or adopted, as applicable, in their entirety to read as follows:

Sec. 20.94. Definitions.

The following definitions shall apply to the following terms used in this article:

(a) **"City"** shall mean the City of Los Angeles and all Departments for which the City Treasurer is custodian of funds and those Departments who grant the Treasurer and the City Administrative Officer discretion over their funds pursuant to City Charter § 303.

(b) **"Banking institution"** shall mean:

(1) State and national banks;

(2) **"Associations"** and **"savings associations"** as defined in California Financial Code § 5102(a);

(3) **"Federal associations"** as defined in California Financial Code § 5102(b).

(4) **"Credit Unions"** as defined by federal and state law.

(5) Any institution not previously specified that proposes to enter into a contract with the City for "Banking services" as defined below.

(c) **"Banking services"** shall include, but not be limited to, deposit services, electronic access services, disbursement services, lending money on the security of real or personal property or without security and other credit services, clearing and safekeeping of securities, wire transfers of funds, underwriting, and/or other services associated with the issuance or refinancing of bonds and commercial paper, and collection, investment and disbursement services of funds associated with securities transactions.

Sec. 20.95. Disclosures of Lending Information for City Depositories and other Banking Business in the Office of the Treasurer.

Banking institutions seeking City Banking business through the Office of the Treasurer and/or the Office of the City Administrative Officer must disclose at the time they initially apply to engage in such business and annually thereafter, the following lending and investment information detailed in paragraphs (a) through (i), below through a filing with the City Treasurer at the time of the initial application and by June 1 of each year after they were awarded City banking business:

(a) Residential Lending Information. The total number and total amount of residential loans for one (1) to four (4) dwelling units applied for and originated during the previous twelve (12) months in the following categories (adjustable rate loans shall be reported separately from fixed loans): 1. for the entire City of Los Angeles; and 2. by individual zip code within the City of Los Angeles:

- (1) Home purchase loans:
 - (i) Conventional loans
 - (ii) Affordable loans (such as those insured under Title II of the Housing Act of 1949 or insured through the California Housing Finance Agency);
- (2) Refinancing of home purchase loans;
- (3) Home improvement loans;
- (4) Home equity loans;
- (5) Multi-family loans;
- (6) Non-occupant loans;
- (7) Modifications of distressed loans
 - (i) Number of modifications that included reduction of principal;
- (8) Foreclosed (REO) properties owned by financial institution or its parents or subsidiaries;

(b) Small Business Lending Information. The total number and dollar value of small business loans and commercial loans applied for and originated

during the previous twelve months: 1. for the entire City of Los Angeles; and 2. by individual zip code within the City of Los Angeles:

(1) Loans to small businesses with revenues above \$1,000,000.00 (one million dollars) annually shall be reported separately from loans to small businesses with revenue below \$1,000,000.00 (one million dollars) annually; or the reporting institution may use data reporting procedures mandated by the federal Community Reinvestment Act for reporting small business loans.

(c) Community Development Loans and Investments. The total number and total dollar amount of community development loans and investments, such as loans and investments for affordable housing rehabilitation or construction, loans to Community Development Financial Institutions (CDFI), or loans to finance community facilities in low or moderate income areas. Information shall be provided: 1. for the entire City of Los Angeles and 2. by individual zip code within the City of Los Angeles:

(d) Consumer Loans and Lines of Credit. The total number and total dollar amount of consumer loans and other lines of credit, including the minimum, median and maximum nominal and effective interest rates applied to residents of the City of Los Angeles.

(e) Branches and Deposits. The number of branches, ATMs, and the dollar amount of deposits for residents within: 1. the entire City of Los Angeles and 2. for each zip code or census tract within the City of Los Angeles, including the number of savings and checking accounts.

(f) Charitable and Philanthropic Activities. Charitable and/or community investment activities within the City of Los Angeles not otherwise specified, including in-kind donations.

(g) The most recent annual SEC 10-K report.

(h) The most recent "Community Reinvestment Act Evaluation" reports issued by the state and federal regulatory agencies authorized to conduct such evaluations.

(i) All banking institutions that provide banking services to the City of LA shall notify the City Treasurer, in writing, of the closings of any physical branches located within the City limits. The contents of the notice shall include:

- (1) Identification and address of the branch closed;
- (2) The date of the closing;

- (3) A statement of the reasons for the decision to close the branch.

The above mentioned information is not exclusive. The Treasurer may request additional information reasonably related to financial challenges faced by the City of Los Angeles and its residents. For example, if the Treasurer concludes that minority or low-income neighborhoods are underserved by Banking institutions because such institutions maintain insufficient number of physical branches to meet the financial needs of those neighborhoods, the Treasurer may also request information on planned branch expansion to such neighborhoods; or, if the number of home foreclosures is high, the Treasurer may request information pertaining to the Banking institutions' foreclosure-related policies such as whether the institutions allow borrowers to qualify for home loan modifications based on unemployment insurance or whether the institutions allow tenants in homes subject to foreclosure to continue to rent the properties until they are sold. This information shall be used by the Treasurer in the same manner as the information detailed in subsections a-i, above.

Banking institutions shall also indicate whether they have policies which allow unemployed borrowers to qualify for home loan modifications based on unemployment insurance, and whether the institutions allow tenants in homes subject to foreclosure to continue to rent these properties until they are sold.

Banking institutions shall submit the information listed above and be evaluated according to their classification as "local institutions" or "non-local institutions", as defined below:

- (1) A **"local institution"** is defined as a Banking institution with 80% or greater of its depository and lending operations within the United States postal zip codes of the City and County of Los Angeles, California. The primary factor to be used for classifying the institution as a local institution will be the institution's listing of branch locations as reported in the most recent FDIC or NCUA summary of deposit reference file.

- (2) A **"non-local Institution"** is defined as a Banking institution with over 20% of its depository and lending operations outside the United States postal zip codes of the City and County of Los Angeles, California. The primary factor to be used for classifying the institution as a non-local institution will be the institution's listing of branch locations as reported in the most recent FDIC or NCUA summary of deposits reference file.

Sec. 20.95.1. Disclosure of Lending Information for Bond Underwriters and other Banking Business with the City Administrative Officer.

If the Banking institution which seeks underwriting and/or other services associated with the issuance or refinancing of bonds and commercial paper, or its affiliates under its control are directly engaged in retail banking, residential, commercial

or community development lending, the institution shall disclose the same information required under Section 20.95 of this Article to the Treasurer, who shall use it in order to prepare a Community Reinvestment Score for the institution.

If the Banking institution or its affiliates are not engaged in direct lending or investment services as described in this Article, then these entities are exempt from the Community Reinvestment Score requirement.

Sec. 20.96. Failure to Provide Information.

If any Banking institution refuses or otherwise fails to provide any of the information described in this Article, the Treasurer shall report such refusal or failure to the Mayor and the City Council. If the institution has previously been designated by the City as an eligible Banking institution, the Treasurer may withdraw the designation, and report this action to the Mayor and City Council.

The Banking institution whose designation as an eligible Banking institution is withdrawn by the City shall be entitled to one hearing to determine if the withdrawal was based on its failure or refusal to provide the information required by this Article. The hearing shall be conducted by the Treasurer or his/her designee. The Banking institution may present evidence to rebut the decision to withdraw the institution's designation. The Treasurer's decision is final and may not be administratively appealed by the Banking institution.

Sec. 20.97. Public Disclosure.

The information required by this Article shall be disclosed on a form to be provided by the Treasurer, and signed by an authorized representative of the Banking institution under penalty of perjury. The disclosure statements filed by Banking institutions shall be posted on the Office of the Treasurer's websites for public viewing within 90 days of the beginning of each new City fiscal year; and be available for public inspection and copying.

Sec. 20.97.1 Evaluation and Ranking of Banking Institutions.

The Treasurer, on an annual basis, shall review and evaluate the information contained in the disclosure statements filed by Banking institutions pursuant to this Article. In addition, the Treasurer shall review any additional information deemed necessary or desirable in evaluating the performance of Banking institutions including but not limited to the public sections of evaluations and reports prepared by federal and state agencies pursuant to the Community Reinvestment Act of 1977, as amended.

The Treasurer shall, on an annual basis, rank the community reinvestment performance of Banking institutions under contract with the City. The Treasurer shall use the evaluations of the Banking institutions' performances in that ranking as one of

the factors it uses to determine if the City will continue to do business with individual Banking institutions.

Each Banking institution shall be compared with its peers, either "local" or "non-local" institutions, as previously defined in this Article, and scored on a scale of zero (0) to one hundred (100) total points, with 100 being the highest possible score. The final number shall be known as the institution's Community Reinvestment Score.

Each Banking institution shall be evaluated in the following four (4) categories. The institution may earn up to twenty-five (25) points in each category toward the total score. If the institution does not offer products or services in one of the four categories described below (i.e. the institution offers home mortgage loans but not small business loans) the institution shall be evaluated by the applicable areas of business as a percentage. For example, if an institution does not offer any residential lending, but offers lending and investment in each of the remaining three categories, its final score shall be determined by calculating the percentage points out of a maximum of 75 points rather than 100. Those institutions whose scores are determined across all four categories mentioned below will have their score measured on a scale of 100 possible points:

- (a) Residential and Mortgage Lending Performance,
- (b) Small Business Lending Performance,
- (c) Community Reinvestment Performance,
- (d) Charitable/Philanthropic Activities, such as in-kind and staff support, financial support of local non-profits and community events, and any other City of Los Angeles based activities that the institution wishes to share that was not previously specified.

The Treasurer is authorized to adopt additional criteria to help evaluate and rank Banking institutions' level of involvement in the community. Any such additional criteria shall be consistent with the goals of this Article, and be designed to help establish the Banking institutions' Community Reinvestment Scores.

The Treasurer's annual evaluation and ranking of Banking institutions shall be presented to the City Council and posted on the Office of the Treasurer's websites for public viewing within 90 days of the beginning of each new City fiscal year; and be made available for public inspection and copying.

Sec. 2. Section 20.98 of Article 2 of Chapter 5.1 of Division 20 of the Los Angeles Administrative Code is amended to read as follows:

Sec. 20.98. Award of Banking Business.

(a) Office of the Treasurer.

The City will safeguard taxpayers' dollars by depositing such money in responsible financial institutions. To this end, prior to conducting any banking transactions to which this Article applies, the Treasurer shall review the performance of the Banking institution which seeks to do business with the City. The Treasurer is authorized to disqualify any Banking institution from receiving City banking services contracts if the institution has exhibited a pattern of discriminatory or other illegal credit practices, or has violated criminal or civil laws.

The Banking institution which has been so disqualified shall be entitled to one hearing to determine if the disqualification was based on a finding that it has exhibited a pattern of discriminatory or other illegal credit practices, or violation(s) of criminal or civil laws. The hearing shall be conducted by the Treasurer or his/her designee. The Banking institution may present evidence to rebut the disqualification. The Treasurer's decision is final and may not be administratively appealed by the Banking institution.

If the Treasurer awards City Banking business to a Banking institution which has exhibited a pattern of discriminatory or other illegal credit practices, or has violated criminal or civil laws, the Treasurer shall report the institution's past pattern of discriminatory or illegal credit practices, or conviction of criminal or civil laws, to the City Council and the Mayor.

(b) City Administrative Officer.

The City Administrative Officer, prior to contracting for any Banking services described in this Article, shall review the performance of the Banking institutions involved in the transaction. The City Administrative Officer is authorized to disqualify from awarding Banking services contracts to any Banking institution which has exhibited a pattern of discriminatory or other illegal credit practices, or has violated criminal or civil laws.

The Banking institution which has been so disqualified shall be entitled to one hearing to determine if the disqualification was based on a finding that it has exhibited a pattern of discriminatory or other illegal credit practices, or violation(s) of criminal or civil laws. The hearing shall be conducted by the City Administrative Officer or his/her designee. The Banking institution may present evidence to rebut the disqualification. The City Administrative Officer's decision is final and may not be administratively appealed by the Banking institution.

If the City Administrative Officer recommends awarding City Banking business to a Banking institution which has exhibited a pattern of discriminatory or other illegal credit practices, or has violated criminal or civil laws, the City Administrative Officer shall

report the institution's past pattern of discriminatory or illegal credit practices, or conviction of criminal or civil laws, to the City Council and the Mayor.

Sec. 3. Article 2 of Chapter 5.1 of Division 20 of the Los Angeles Administrative Code is amended to add new sections 20.98.1 through 20.98.3 to read as follows:

Sec. 20.98.1 Award of Banking Business for City Depositories and other Banking Business in the Office of the Treasurer.

The Treasurer, in evaluating responses to Requests for Proposal/Requests for Qualifications (RFP/RFQ) for Banking services and consistent with state and federal law, shall include as a factor in the choice of Banking institutions with whom to conduct City banking transactions the Treasurer's evaluation and ranking of Banking institutions as described herein and adopted hereto. Further, with respect to Banking institutions which already conduct City Banking transactions, the Treasurer may, upon making such evaluation and ranking, take the following measures:

- (a) Increase the level of City Banking business held by an institution that scores in the top 25% of local reinvestment performance; and
- (b) Withdraw City Banking business from an institution that scores in the bottom 25% of local reinvestment performance; and
- (c) Take other such steps, consistent with sound fiscal practice and applicable law, as may be necessary or desirable.

The institutions that score in the top 25% among the Community Reinvestment Scores shall be recognized by the City for their performance and be allowed to cite their status in communications to the public.

Sec. 20.98.2. Award of Banking Business for Bond Underwriting.

The City Administrative Officer, in evaluating Requests for Proposals/Requests for Qualifications (RFP/RFQ) for bond underwriting and/or other services associated with the issuance or refinancing of bonds and commercial paper, and consistent with state and federal law, shall include as a factor in the choice of Banking institutions with whom to conduct City banking transactions the Treasurer's evaluation and ranking of Banking institutions as described herein and adopted hereto.

Sec. 20.98.3. Treasurer's Reports.

On an annual basis, the Treasurer shall inform the Board of Commissioners of the Los Angeles City Employees' Retirement System (LACERS), the Los Angeles Department of Water And Power Employee Retirement Plan (LADWPERP), and the Los Angeles Board of Fire And Police Pension Commissioners of the performance of

Banking institutions as rated pursuant to the City of Los Angeles' reinvestment performance rating system.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Valentin F. Dinu
VALENTIN F. DINU
Assistant City Attorney

Date November 4, 2010

File No. 09-0234