

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: December 01, 2011

CAO File No. 0220-02221-8970

Council File No. 09-0234-S1

Council District: ALL

To: The City Council
The Mayor

From: Miguel A. Santana, City Administrative Officer



Reference: C.F. 10-1763-S2

Subject: **REPORT BACK TO DISCUSSIONS RELATING TO THE RESPONSIBLE BANKING
ORDINANCE IMPLEMENTATION PLAN AND AMENDING MOTION 24A**

SUMMARY

On November 21, 2011 and November 22, 2011, Budget & Finance Committee and the Council, respectively, discussed issues relating to the Responsible Banking Ordinance (RBO) implementation plan and Amending Motion 24A. The City Administrative Officer (CAO) received feedback from Budget & Finance Committee, the Council and the public to modify the RBO as follows: 1) to draft an ordinance that reflects the overall responsible banking concepts and excludes specific criteria, 2) to create an Advisory Working Group (the "Working Group") to develop specific criteria for commercial banking services and to develop rules and guidelines for implementing the RBO, 3) to prioritize a bank's participation in principal reduction home loan programs administered by the City and State (i.e. Keep Your Home LA) in its criteria, 4) to require banks to update their RBO information annually, 5) to create and post a matrix of information collected from banks for public access, and 6) to include "regulatory sanctions" as part of "wrongdoing".

The CAO recommends that the City Attorney draft a RBO by December 31, 2011 to reflect the concepts of responsible banking but exclude specific criteria. The criteria will be further refined by the Working Group as explained below. The City Attorney should consider a format similar to the City of Philadelphia's RBO (see Attachment A).

The task of the Working Group will be to develop recommendations for specific criteria for commercial banking services, based on the concepts discussed herein, and to identify rules and guidelines for implementing the RBO. Members of the Working Group will include at minimum two representatives from community advocate groups, two representatives from the banking industry, and representatives from the following City offices including: Finance, Housing, the Chief Legislative Analyst, the Mayor, the City Attorney and the CAO. The CAO will chair the Working Group, coordinate meetings and report back on the Working Group's findings and recommendations. It is recommended that the Working Group finalize its analysis and recommendations for the CAO to report back by the end of Fiscal Year 2011-12.

The RBO as recommended by the CAO distinguishes between commercial banking and underwriting by bifurcating underwriting services from other banking services, creating two distinct RBO criteria. The RBO for commercial banking services shall be administered by Finance and shall include several components:

- (1) Require banks to submit information, specific to the Los Angeles area, on its federal Community Reinvestment Act score;
- (2) Require banks to submit information, by census tract, on City and State administered housing programs specific to principal reduction home loan activity in Los Angeles (i.e. Keep Your Home California and Los Angeles Mortgage Modification Program);
- (3) Require banks to submit information related to the total value and number of small business loans issued by census tract; and
- (4) Require banks to provide and/or update this information annually.

As the City Treasurer, Finance shall be required to administer the RBO program for commercial banking services. This includes creating and posting a matrix of information collected from banks for public access on an annual basis, in addition to implementing other rules or guidelines that may be recommended by the Working Group. However, due to lack of staff, funding and expertise, Finance may need to hire additional resources. Upon the Working Group's final recommendations, Finance will report back with a budget request for administering the RBO.

The prior CAO report dated November 18, 2011, stated that "wrongdoing" should be determined when there is clear and convincing evidence of applicable final convictions in any criminal courts or applicable final judgments in any civil courts. Settlements where the entity neither admitted nor denied any guilt shall not be treated as "wrongdoing". Therefore, allegations alone are not confirmation that an entity has committed wrongdoing. In addition to the above definition, the Council instructed the CAO to include regulatory sanctions. Sanction is a broad term with various meanings depending on the context. For this purpose, a Sanction shall mean any civil monetary penalty with admission of guilt, imposed on an entity for violations of Federal and/or State banking law provisions administered by any governmental banking regulatory agency and only on matters relevant on the scope of the business being pursued. For example, matters such as routine findings of deficiencies or cease and desist orders pertaining to unrelated matters such as flood insurance are not relevant. Procedurally, the City will request information on all relevant litigation and sanction matters over the past five years regardless of the outcome to determine whether an entity will be disqualified from doing business with the City. Additionally, before disqualifying any entity, the City should also consider any corrective actions or steps the entity has taken to remedy or prevent further potential violations.

This report is in compliance with the City's Financial Policies.

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. APPROVE from the City Administrative Officer Report dated November 18, 2011, recommendations number 2, 5 and 6;
2. INSTRUCT City Attorney to draft a Responsible Banking Ordinance by December 31, 2011; and
3. INSTRUCT the City Administrative Officer to report back by June 30, 2012 with Responsible Banking Ordinance rules, guidelines and criteria.

FISCAL IMPACT STATEMENT

This report has no immediate fiscal impact on the General Fund.

DEBT IMPACT STATEMENT

This report has no immediate debt impact on the General Fund.

MAS:HTT:DM:09120100

ATTACHMENT A

City of Philadelphia's Ordinance
(Bill No. 060015)

City of Philadelphia



(Bill No. 060015)

AN ORDINANCE

Amending Chapter 19-200 of The Philadelphia Code, entitled "City Funds - Deposits, Investments, Disbursements", by clarifying the requirements for city depositories.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-200.

CITY FUNDS-DEPOSITS, INVESTMENTS, DISBURSEMENTS

§19-201. City Depositories.

* * *

(2) Each depository shall:

- (f) provide the City with an annual statement of community reinvestment goals including the number of small business loans, home mortgages, home improvement loans, and community development investments to be made within low and moderate-income neighborhoods in the City of Philadelphia. Each depository shall also certify compliance with Section 17-104 of The Philadelphia Code and provide the City with a long term strategic plan to address disparities in its lending and investment activities. *The strategic plan shall address how the depository will match or exceed peer lending performance in targeting capital access and credit needs disclosed in disparity studies commissioned by the City.* On July 1 of each year, the City Treasurer shall certify to the President of City Council whether or not each bank and institution on the list of potential City depositories set forth in this section has complied with each requirement of this subsection in the preceding fiscal year and shall withdraw all City funds from any bank or institution that has not complied with each requirement. No funds shall thereafter be deposited in such bank or institution until the bank or institution comes into compliance with each requirement and the City Treasurer has so certified to the President of City Council. The City Treasurer shall provide the President of City Council

City of Philadelphia

BILL NO. 060015 continued

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notification of the withdrawal of, and redeposit of, any City funds pursuant to this subsection.

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Explanation:

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 2, 2006. The Bill was Signed by the Mayor on March 16, 2006.



Patricia Rafferty
Chief Clerk of the City Council