

NATIONAL  
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*NCRC*



# How Cities Can Pursue Responsible Banking:

Model Local Responsible Banking Ordinance Creates  
Community Reinvestment Requirements for Financial  
Institutions

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Model Local Responsible Banking Ordinance Creates Community Reinvestment Requirements for Financial Institutions

## Creating Community Reinvestment Requirements in Your City or Town

The NCRC model responsible banking ordinance is designed to increase the amount of responsible loans, investments, and financial services in minority and low- and moderate-income communities and to older adults through heightened public accountability to municipalities and their residents.

The NCRC model ordinance creates an affirmative obligation for financial institutions receiving municipal deposits to serve all communities, including and especially minority and low- and moderate-income communities, consistent with safety and soundness. Updated from NCRC's 2010 ordinance, the model ordinance is based on our experience supporting, enhancing, and helping to craft laws in Cleveland, Philadelphia, New York, Los Angeles, and Pittsburgh.

The ordinance requires commercial banks that desire to receive deposits from a municipality to submit annual data that includes their home and small business lending, branching and deposits, and community development and investments. The institutions will also be required to submit a Community Reinvestment Plan to the municipality, which is a two year plan for lending, investing, and providing banking services to city communities. In addition to covering commercial banks, the model ordinance extends community reinvestment requirements to investment banks desiring city business.

The model ordinance establishes a process that occurs every two years for reviewing bank community reinvestment performance and making recommendations regarding which banks should receive municipal business. A Community Reinvestment Review Committee composed of city officials and community organizations shall review the Community Reinvestment Plans and shall commission a study once every two years, using the data submitted by the financial institutions to rank the community reinvestment performance of banks. The Reinvestment Review Committee makes the data, Reinvestment Plans, and study publicly available. The Reinvestment Review Committee also holds hearings and public comment periods to receive input from stakeholders and interested members of the general public.

Using the findings of the study and public comments, the Community Reinvestment Review Committee will make recommendations regarding which institutions the city should use to do their banking. For those banks that receive city business, the Reinvestment Review Committee includes in its recommendations areas in which the banks are expected to make improvements.

The city would be prohibited from placing deposits or investing in institutions that make or finance predatory home and non-home loans. Financial institutions seeking city business must swear and sign an affidavit promising to adhere to their Community Reinvestment Plans and pledging to provide responsible and safe and sound loans and other financial products.

## Implementation Considerations for Cities

Once every two years, the model ordinance requires a Community Reinvestment Committee composed of city officials and community organizations to commission a study and then make recommendations regarding which institutions receive municipal deposits and other city business. Different cities may opt to choose different time periods, but a two year time period strikes the correct balance between not being too frequent and not often enough. Also, a two year Community Reinvestment Plan is roughly the same time period covered by most CRA exams. A longer time frame such as planning four or five years in the future may be difficult due to the likelihood of significant changes in economic conditions.

Although the Reinvestment Committee would make recommendations once every two years, the model ordinance requires banks receiving city business to submit data to the Reinvestment Committee on an annual basis. Regular time periods for submitting data eases submissions logistics and also reminds banks during the “off years” (when the Committee is not issuing recommendations) that they have affirmative requirements to the city.

Below in the text of the model ordinance, some of the data requirements are asterisked. This is data beyond the data that is currently required by the federal government. While collecting this data is desirable, some cities may reach different conclusions about the feasibility of collecting some of this data or may seek additional types of data.

Our model ordinance rotates the chair of the Reinvestment Committee between the City Treasurer and the director of the Community Development and Housing Department. The director of the Community Development and Housing Department often has the best sense of neighborhood needs and conditions while the Treasury disburses various city contracts and decides where to place municipal deposits. It thus seemed important to include both officials as chairs. Again, different cities will make different decisions based on their structure and politics. Some cities may dispense with a Reinvestment Committee, but it is designed to promote transparency and build support for this program by involving various constituencies.

## The Model Ordinance

**WHEREAS**, The practices and products (such as loan and investment products) of financial institutions have a measurable impact on the City's tax base, quality of life and overall economic viability and competitiveness; and

**WHEREAS**, Economic viability and competitiveness comes from strengthening, and providing opportunities within all areas of the City;

**WHEREAS**, financial institutions receive deposits and other forms of investments and accounts from City residents;

**BE IT RESOLVED**, therefore, that in return for the privilege of safeguarding and investing the community's wealth and doing business with the City, the financial institutions have a continuing and affirmative obligation to serve the credit and other financial needs of all communities, including and especially minority and low- and moderate-income communities and older adults, consistent with safety and soundness. The City shall assess financial institutions' performance in meeting community needs and use this assessment as a factor in its decision to place municipal deposits in financial institutions and conduct other business with financial institutions.

## Definitions

Certain terms are defined as follows:

- (a) City depository – financial institution receiving municipal deposits.
- (b) “Commercial Bank” shall be defined as a banking institution that accepts cash deposits for checking and savings accounts from customers and uses those deposits to issue loans.
- (c) "Female Business Enterprise" means a business (A) more than 50 percent of the ownership or control of which is held by 1 or more women; and"(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.
- (d) "Full Service Banking" means banking services which include, but are not limited to, use of branches, on-site loan officers, automatic teller machines, and Saturday hours.
- (e) “Investment Bank” shall be defined as a financial institution that provides underwriting services including the buying and selling of stocks, bonds, and other securities and other debt related services.
- (f) "Low to Moderate Income" means eighty percent (80%) of the median income for the Metropolitan Statistical Area.

(g) "Minority Business Enterprise" means a business (A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and (B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(h) "Minority Neighborhoods" means census tracts in the City with more than fifty percent (50%) racial and/or ethnic minorities.

(i) "Neighborhood development" means an organized, community-based effort involving government, non-profit neighborhood groups, financial institutions, private individuals and resident leadership with the purpose of revitalizing residential, commercial and industrial areas in neighborhoods.

(j) "Community Reinvestment Plan" – a two-year plan describing goals in terms of annual numbers and dollar amounts of loans and investments offered to low- and moderate-income, older adults, and minority residents and communities. The plan includes descriptions of innovative and flexible product features and assurances that the products are responsible because only safe and sound loans and investments meet community needs. The plan describes efforts to ascertain community needs and marketing approaches to reach traditionally underserved communities. The plan describes foreclosure prevention efforts, servicing best practices, and targets for meaningful assistance to distressed borrowers. The Community Reinvestment Plan shall also indicate how the bank will match or exceed peer performance in lending, investment, and services to traditionally underserved groups of consumers and communities.

## Annual Disclosures

Note: An asterisk, "\*", indicates data disclosure requirements beyond those required by the federal government.

A commercial bank desiring designation as a city depository shall submit annually to the City the following information needed for evaluation of the policies and practices regarding housing and economic and community development of such depository.

An investment bank desiring city business shall submit annually to the City data regarding community development lending and investments (see (3) below).

The information shall be reported for the institution and its affiliates and subsidiaries. The information shall be reported separately for each affiliate/subsidiary and aggregated for the institution as a whole:

(1) *Residential Lending Information*. The total number and the total dollar amount of residential loans for one to four family dwellings applied for and originated during the previous calendar year in each of the following categories:

- A. Home purchase loans, both federally insured and conventional loans;
- B. Refinancings of home loans;

- C. Home improvement loans;
- D. Home equity loans\*;
- E. Multi-family loans;
- F. Loans to non-occupant owners of single family housing;
- G. Modifications of distressed loans and type of modification, including interest rate reductions, forbearance, principal reduction, or repayment plans in which the outstanding loan amount increases, and an indication of whether the modification was executed under the federal Home Affordable Modification Program (HAMP), another federal program, or the institution's own modification program.\*;<sup>1</sup>
- H. Short Sales, deeds in lieu, and other mechanisms besides loan modifications that avoid foreclosure\*
- I. Defaults and delinquencies on home loans\*.
- J. Real Estate Owned properties – the number owned by the institution and documentation regarding efforts to address material, health, and safety deficiencies in the properties.

The data for each item above shall be provided for the entire City, and for each census tract within the City. For home loans, fixed rate loans shall be reported separately from adjustable rate loans\*.<sup>2</sup>

(2) *Small Business Lending Information.* The total number and the total dollar amount of small business loans originated during the previous calendar year (a) for the entire City, (b) for each census tract within the city, (d) for minority business enterprises in the entire City and in each ward\*, and (e) for female business enterprises for the entire City and for each ward\*. Loans to small businesses with revenues above \$1 million dollars shall be reported separately from loans to small businesses with revenues under \$1 million. The City depository can use the data reporting procedures mandated by the federal Community Reinvestment Act for reporting small business loans.<sup>3</sup>

(3) *Community development loans and investments.* The number and dollar amount of community development loans and investments including loans and investments for affordable housing, small

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<sup>1</sup> The Treasury Department requires data disclosures of institutions participating in the HAMP program. As required by the Dodd-Frank Consumer Protection and Wall Street Reform Act of 2010, the Consumer Financial Protection Bureau and the Department of Housing and Urban Development will be developing regulations regarding a database of loan performance (delinquency, default, and foreclosure), the number of loans whose outstanding principal amount exceeds the value of property serving as collateral, and the number of properties that are real estate owned on a census tract level.

<sup>2</sup> Per Dodd-Frank requirements, the Consumer Financial Protection Bureau will also be enhancing HMDA data to include price information for all loans, information on whether the loans are fixed or adjustable rate, the age of the borrower, and additional improvements.

<sup>3</sup> As required by the Dodd-Frank Act, the Consumer Financial Protection Bureau will be expanding federal data reporting requirements for small business lending to include more detail about the demographics of the small business such as gender and race of the small business owner.

business development, economic development, and community facilities for the entire City and for each census tract\*. The definition of community development is that of the federal Community Reinvestment Act regulations. For each loan and investment, the institution shall indicate if the loan or investment was for affordable housing, small business development, economic development, community facilities, and other such categories requested by the City Treasurer or Community Reinvestment Committee\*.

(4) *Branches and deposits*. The number of branches, ATMs\*, and number and dollar amount of deposits\* for the entire City and for each census tract.

(5) Consumer loan data. The number and dollar amount of consumer loans for the entire City and for each census tract. Price information shall be reported in a manner similar to HMDA data.\*

(6) The most recent annual report or SEC 10-K report with quarterly financial updates.

(7) The affidavit set forth below executed by a duly authorized officer of such financial institution.

(8) The most recent "Community Reinvestment Act Evaluation" issued by the federal regulatory agency authorized to conduct such evaluations.

(9) A copy of the depository's branch closing policy.

(10) Information regarding the number of minorities, females and City residents employed by the depository as loan officers and as members of its board of directors and senior management staff.

(11) Any additional information requested by the City Treasurer.

Except where otherwise specified, the information shall be made on forms provided by or prescribed by the City Treasurer.

## **Submission of Community Reinvestment Plan**

Once every two years, the current city depositories and other commercial banks wishing to receive municipal deposits submit a Community Reinvestment Plan. A Community Reinvestment Plan is a two-year plan with annual loan and investment numbers and dollar amounts. As a two year plan, the plan describes goals in terms of loans, investments, and services for each of the two years. The plan also describes foreclosure prevention efforts, servicing best practices, and targets for meaningful assistance to distressed borrowers.

For investment banks seeking business with the city, the Community Reinvestment Plan focuses on current and proposed community development lending, services, and investing, including grants, technical assistance, and philanthropy for nonprofit organizations engaged in community development (Community development services refers to the definition in the federal CRA regulations, and includes technical assistance and support for or the direct provision of financial counseling).

For institutions engaged in both commercial banking and investment banking, the Community Reinvestment Plan would follow the requirements for commercial banks since commercial banks report on lending, community development lending and investment, and bank services and branching.

For commercial banks, the Community Reinvestment Plan describes current and proposed initiatives to address the financial needs of the City, its residents and businesses, including low-and moderate-income residents, minority residents, older adults, low- and moderate-income communities, and minority communities in the above categories of loans and investments described in the “Annual Disclosure” section and including:

- A. Small consumer loans, including those that serve as an alternative to payday loans;
- B. Affordable check cashing and other transactional services used by consumers with limited banking accounts or experience;
- C. Participation in City-sponsored neighborhood development programs and consortiums;
- D. Equitable contributions to community based non-profit organizations in the City that engage in neighborhood development
- E. Provision of full service banking in City neighborhoods;
- F. Plan to market loan products and services throughout the City to include (1) low and moderate income neighborhoods, (2) minority neighborhoods, (3) low and moderate-income consumers (4) minority consumers (5) small businesses, (6) minority business enterprises and (7) female business enterprises; (8) older adults; and,
- G. The Community Reinvestment Plan shall also indicate how the bank will match or exceed peer performance in lending, investment, and services to the target groups.

## **Review of Disclosure and Creation of Reinvestment Review Committee**

(a) Each commercial bank seeking municipal deposits and each investment bank seeking city business shall submit to the Reinvestment Committee the information and Community Reinvestment Plan set forth above and the sworn affidavit set forth below.

This information and Community Reinvestment Plan shall be used to determine whether the commercial bank or investment bank has acted in compliance with its sworn affidavit and whether it will be considered for designation as a City depository in the future as well as to inform policy decisions by the City regarding investment of City funds and purchase of services.

All such information required in this section will be available for public inspection and also placed on the City’s website.



(b) The review process occurs once every two years and will be administered by the Reinvestment Review Committee, composed of eleven members, including:

(1) The City Treasurer, who shall serve as Chair (the Chair rotates between the Treasurer and the head of the Department of Community Development and Housing);

(2) The director of the Department of Economic Development;

(3) The director of the Department of Community Development and Housing;

(4) Two members of City Council; and

(5) Six members of community organizations whose principal purpose is neighborhood development or civil rights enforcement.

The Chair in conjunction with the Committee shall commission a study once every two years using the data and information submitted above by each bank. The Chair shall issue a Request for Proposals (RFP) soliciting a contractor to conduct the study. The study shall assess and rank each depository's community reinvestment performance and the community reinvestment performance of commercial banks that do not currently have municipal deposits but that are applying to receive municipal deposits. The rankings in the report shall inform the recommendations of the Committee regarding which institutions shall receive City deposits and the amount and percentage of City deposits received by each depository. The Committee shall also indicate specific improvements it expects in community reinvestment performance of each depository.

Likewise, the study will compare and rank the performance of investment banks that have received city business or are seeking city businesses. The rankings in the report shall inform the recommendations of the Committee regarding which investment banks should receive city business. The Committee shall also indicate the specific improvements it expects in the community reinvestment performance of each investment bank receiving city business.

Prior to making recommendations regarding which banks shall receive City business and municipal deposits, the Committee shall receive public comments over a period of 60 days regarding the community reinvestment performance of financial institution(s). During the public comment period, the Committee shall hold public hearings in each ward (or distinct areas of the city) to receive any additional comments and to describe the community reinvestment performance of the banks to the public.

The Committee shall make publicly available before or at the start of the public comment period, the annual data disclosures, the banks' Community Reinvestment Plans, and the study it commissioned on the banks' community reinvestment performance. The information shall be placed on the official web page of the City and upon request, the Committee shall make available to the general public, hard copies of the information.

The Committee shall consider public comments received during the comment period and at the hearings in making their recommendations. The recommendations shall include which

commercial banks shall receive City deposits and other City business and the amount or percentage of deposits received by each institution. The recommendations shall also include which investment banks shall receive City business and how much City business each investment bank shall receive. The Committee shall also make publicly available its recommendations of which banks should receive City business.

### **Penalties for Non-Disclosure**

Any commercial and investment bank that does not execute an affidavit and does not comply with annual data disclosure and the Community Reinvestment Plan requirements shall not be eligible to receive City business.

### **Deposits and Investments in Institutions Practicing Predatory Lending Prohibited**

- (1) The City Treasurer shall not keep any City funds on deposit in any bank, its affiliates, or other financial institution that makes predatory home loans, abusive payday loans, or other unscrupulous non-home loan or financial products.
- (2) The City Treasurer shall not allow City monies to remain invested, or hereafter make investments in, stocks, securities, or other obligations of any entity that makes predatory home and non-home loans, or has an affiliate that, or is an affiliate of a bank or other financial institution that makes predatory loans.
- (3) The City Treasurer shall not allow City monies to remain invested, or hereafter make investments in, securities collateralized by any interest in predatory home and/or non-home loans.
- (4) Any divestiture required by this section shall be completed within six months of receipt by the City Treasurer of notice from the Director of Consumer Affairs or the Reinvestment Committee that a business entity makes predatory loans, or has an affiliate that, or is an affiliate of a bank or other financial institution that makes predatory loans. During the six-month period, the City Treasurer shall make regular reports to the City Council concerning the progress of divestiture. If, prior to expiration of the six-month time limit for divestiture, the City Treasurer determines that completion of divestiture within the six-month time limit will necessitate substantial losses to the City then the City Treasurer shall request from City Council an extension of time within which to complete divestiture.

## Affidavit

The affidavit required by this statute shall be in the following form and shall contain the information herein required:

### AFFIDAVIT OF COMMUNITY REINVESTMENT AND RESPONSIBLE FINANCIAL SERVICE INTENT (for commercial and investment banks)

I, \_\_\_\_\_, a duly-authorized representative of \_\_\_\_\_, being first sworn, depose and say as follows:

1. That for the purpose of becoming an eligible depository for active deposits of the City and/or conducting other City business, the undersigned affiant states that it will develop responsible lending and financing opportunities to support residential and commercial development of the City's neighborhoods and make "best efforts" to execute our Community Reinvestment Plan submitted to the City.

Affiant states that such best efforts shall include, but are not limited to:

A. The presence of identifiable trained loan officers and other financial professionals with a clearly defined focus on "neighborhood development" finance;

B. Cooperation with and support of non-profit neighborhood development organizations in the successful implementation of "neighborhood development" finance, through vehicles such as grants, below-market financing and equity investments;

C. A willingness to participate in the financing of publicly-subsidized neighborhood development projects;

D. A commitment to affirmatively market and make available banking services throughout the City's neighborhoods;

E. A commitment to safe and sound financial products and investments, adhering to federal and local anti-discrimination laws, and a commitment to affirmatively serving older adults, communities of color and low- and moderate-income communities;

F. The cooperative establishment of investment services through incentive programs such as linked deposits;

G. Further, the affiant certifies that neither [insert institution desiring to become City depository or conduct other business], nor any of its affiliates, (i) will make or finance predatory home and non-home loans; and,

H. Further, the affiant agrees to submit the information required by this statute to the Reinvestment Committee on an annual basis and other information more frequently as requested by the Committee.

## **Notice and Meetings of Proposed Branch Closings**

Each contract with a depository shall contain a requirement that the depository provide written notice to the Mayor and the City Treasurer one hundred and twenty days prior to the closing of any branch of such depository located within the City. The notice shall identify the location of the branch, the date on which it is anticipated that the branch will close and the reason for closing the branch. The depository shall also participate in public meetings with members of the Community Reinvestment Committee, state and/or federal regulatory agencies, non-profit community organizations, and other members the public to consider alternatives to branch closure.