



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

NYC COUNCIL
2012 MAY 30 P 5: 57
2012 MAY 30 P 5: 52
SPEAKER'S OFFICE

May 30, 2012

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 485-A, which creates a Community Investment Advisory Board ("Board") within the Department of Finance. The bill is a misguided attempt to influence who banks serve and how banks serve them by overlaying extensive existing federal and State bank regulation with yet another layer of City regulation. The bill extends beyond the City's competence and legal authority and risks reducing the number of banks who are willing or able to do business with the City.

Introductory Number 485-A requires the Board to evaluate banks that seek to do business with the City on whether they are meeting the financial and banking service needs of small businesses and low- to moderate-income individuals and communities throughout the City. The Board would be required to conduct a biennial "needs assessment" at the Census tract level, evaluating credit, financial, and banking service needs throughout the City with an emphasis on low- and moderate-income individuals and communities, and establishing "benchmarks" and "best practices" against which these banks are to be evaluated. The bill requires the Board to issue an annual report that would evaluate how each bank is meeting the needs identified in the assessment using the benchmarks and best practices established by the Board. In order to evaluate banks, the Board would seek mountains of data from each bank for each of the 2,168 census tracts in the City on eight broad categories ranging from charitable giving, to the maintenance of foreclosed properties, to investment in affordable housing and economic development projects in low-income communities. The Board would specify in the annual report banks not providing all the information requested by the Board. The bill authorizes the Banking Commission to consider the Board's annual report evaluating each bank when determining whether a bank will be designated or re-designated as a deposit bank. Notably, the Board's

evaluation of banks does not address whether banks seeking to be designated are operating in a safe and sound manner or could appropriately safeguard City moneys.

Importantly, neither the Department of Finance nor any other agency within the City government currently has any expertise in the complex kind of evaluations, articulation of “best practices” for banks and bank supervision activities contemplated by the bill.

In short, this bill adds an onerous and unnecessary third tier of regulatory oversight in an already heavily regulated area. Banks are currently regulated by federal agencies, including the United States Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the newly created Consumer Financial Protection Board, as well as the State Department of Financial Services, for New York State-chartered banks. If there is a view that current regulation is insufficient, the path to effective change is not to create a new, duplicative process, but rather to work with the existing regulatory agencies, which already have deep experience and expertise in this area.

Moreover, State and federal laws preempt the City from regulating State and national banks in this manner. Introductory Number 485-A serves no proprietary purpose but instead impermissibly uses the City’s power to designate banks and deposit funds in order to pressure banks into adopting certain practices with respect to core banking matters such as lending to small businesses, addressing the credit needs of customers, handling foreclosure proceedings, and providing funding for housing. The bill also interferes with regulatory regimes established elsewhere in federal and State law, and gives the Board an improper measure of oversight over banks by authorizing the Board to obtain and examine bank records beyond those required by existing government regulators.

The bill marks a stark departure from the statutory functions of the New York City Banking Commission and substantially revamps the framework within which the City, through the Banking Commission, reviews applications from banks seeking to do business with the City. Under the current framework, banks are designated based on various factors related to solvency, corporate well-being, and compliance with State and federal laws. The City, through the Banking Commission, also considers the federal and State Community Reinvestment Act (“CRA”) ratings of banks seeking designation, and these ratings reflect a bank’s record of performance in helping to meet the credit needs of a community, including low- and moderate-income neighborhoods. Already, no bank can be designated to hold City funds without at least a “satisfactory” CRA rating. Creating a new third tier of analysis on banks’ community investment and service efforts by yet another review board at the municipal level—outside of the City’s expertise—is duplicative and a waste of taxpayer resources. Furthermore, the Department of Finance would need to add a significant number of new staff members at taxpayer expense to support the functions and reporting requirements of the Board.

The mandates within the bill significantly increase the complexity of bank reporting, risk sophisticated and qualified banks opting out of doing business with New York City, and add costs to banks that will likely be passed along to the very people we seek to help through financial empowerment programs. Introductory Number 485-A could particularly penalize smaller banks, which may not be able to comply with its extraordinary reporting requirements.

In addition, the volume and sophistication of City transactions mandate that some of the City's banking can be effectively done only by a few large national banks. This bill potentially jeopardizes the availability of such banks because one or more might simply opt out of competing for the City's business. This would result in fewer options and undoubtedly increased costs as competition dwindles, and would not serve the best interests of the City and its taxpayers.

While I share the Council's concern that banks meet the credit, financial, and banking service needs of New York City's small businesses and residents, Introductory Number 485-A adds little to that goal. In contrast, we are actively working with the Council on a number of successful programs that are helping New Yorkers recover from the 2008 financial crisis. For example, the Office of Financial Empowerment within the New York City Department of Consumer Affairs and the Center for Economic Empowerment help low-income New Yorkers connect with financial services. Likewise, the New York City Department of Housing, Preservation and Development ("HPD") has established the Center for New York City Neighborhoods, which helps New Yorkers deal with single-family foreclosures. That initiative alone has resulted in nearly 2,700 loan modifications from the approximately 7,000 loan modification requests that were received. Moreover, HPD, in partnership with Speaker Quinn and this Council, launched the Proactive Preservation Initiative, which identifies and rehabilitates financially-challenged multi-family properties in need of repair. HPD already shares this information with bank regulators to increase transparency and encourage lenders to take steps to improve distressed assets.

In addition, the New York City Department of Small Business Services ("SBS") has worked with banks to expand credit for small businesses throughout the City. This initiative created a Bank Advisory Council, consisting of ten partner banks that have already committed to a variety of initiatives to facilitate enhanced access to capital for small businesses, including supporting an innovative partnership with the U.S. Export-Import Bank to increase support for New York's exporting small businesses. SBS has been instrumental in furthering our goals of connecting small businesses with greatly needed capital, and those efforts have paid off. SBS helped connect the City's small businesses with nearly \$40 million in capital in 2011, almost double the amount in 2010.

We should continue to work together to further our shared goals, and build upon the successes we have already achieved. For all the reasons stated above, Introductory Number 485-A is not the means to achieve these goals.

For the foregoing reasons, I hereby disapprove Introductory Number 485-A.

Sincerely,



Michael R. Bloomberg
Mayor

Cc: The Honorable Christine C. Quinn