



Office of the Chicago City
Clerk



O2012-1360

Office of the City Clerk

City Council Document Tracking Sheet

Meeting Date:	3/14/2012
Sponsor(s):	Emanuel, Rahm (Mayor)
Type:	Ordinance
Title:	Diversion of interest on linked deposits for loan loss reserve pool
Committee(s) Assignment:	Committee on Finance



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

March 14, 2012

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the City Treasurer, I transmit herewith an ordinance authorizing the diversion of interest on linked deposits for the loan loss reserve pool.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of government under Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City recognizes that payday loans are an exceptionally expensive way for individuals to borrow small amounts of money; and

WHEREAS, the Treasurer of the City of Chicago ("Treasurer's Office") now desires to establish a Linked Small-Dollar Loan Incentive Program ("Program"), which Program is set forth in Exhibit A, attached hereto and incorporated herein, (i) to provide an incentive for eligible lending institutions to establish small-dollar loan programs for their retail customers that can be an alternative to payday loans, and (ii) to fund special-purpose loan loss reserve accounts from interest earned by the City on certain City investments, which accounts will reimburse eligible financial institutions for not to exceed 10% of the dollar loss, if any, suffered by such institutions from defaulted or otherwise non-performing small-dollar loans; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The Program is hereby authorized, including the expenditure of funds subject to appropriation therefor, if any, subject to revisions the Treasurer's Office may make to the Program from time to time, provided such revisions do not amend any essential terms of the Program.

SECTION 2. Because of the compelling public good offered by the Program, any part of the Investment Policy of the Treasurer's Office (Section 2-32-515 et seq. of the City's Municipal Code) that may conflict with the purposes of the Program is hereby waived solely for the purposes of and to the extent of the Program.

SECTION 3: Interest, if any, earned by the City's aggregate pool from its purchase of those Certificates of Deposit described in the Program is hereby appropriated from the City's Corporate fund, as such interest earnings are set forth in the Program description, to fund the special-purpose loan loss reserve accounts described in the Program and for other purposes set forth in the Program.

SECTION 4. Interest, if any, earned by the City from the monies placed from time to time in the special-purpose loan loss reserve accounts described in the Program is hereby appropriated, as such interest earnings are set forth in the Program description, to reinvest as additional funding of the special-purpose loan loss reserve accounts described in the Program and for other purposes set forth in the Program.

SECTION 5. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 6. To the extent that any current ordinance, resolution, rule or order is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control.

SECTION 7. This ordinance shall be in full force and effect from and after the date of its passage and approval.

EXHIBIT A

Linked Small-Dollar Loan Incentive Program

[see attached]

Effective as of _____, 2012, and
subject to modification from time to time
in the sole discretion of the Treasurer's Office

CITY OF CHICAGO
OFFICE OF THE CITY TREASURER
LINKED SMALL-DOLLAR LOAN INCENTIVE
PROGRAM

The City of Chicago's Linked Small-Dollar Loan Incentive Program ("Program"), administered by the City of Chicago Treasurer's Office ("Treasurer's Office"), is designed to accomplish these purposes:

(i) the City will make certain investments in certain financial institutions from time to time, the interest of which will fund special-purpose loan loss reserve accounts that will reimburse eligible financial institutions for not to exceed 10% of the dollar loss, if any, suffered by such institutions from defaulted or otherwise non-performing small-dollar loans, and

(ii) as a condition of the deposit of City investments, certain financial institutions will create their own small-dollar loan programs to provide an alternative to payday loans for those banks' retail customers.

The Program is anticipated to run for a minimum of five (5) years, but this period may be extended or decreased in the sole discretion of the Treasurer's Office.

PARTICIPATING FINANCIAL INSTITUTION

"Participating Financial Institution" is any financial institution whose Program Application (defined below) has been accepted by the Treasurer's Office and that, at the time it begins participating in the Program, and for as long as it remains a Participating Financial Institution in the Program, is on the then-current list of Municipal Depository entities acceptable to the City.

BASIC PROCESS

Unless terminated by the City before the anticipated expiration date, the Program will proceed along these steps:

- Financial institution contacts Treasurer's Office, indicating interest in participating in the Program, and submits a Program Application ("Program Application Date") as set

forth below

- Financial institution demonstrates to the sole satisfaction of the Treasurer's Office that it has already established a Small-Dollar Loan program (defined below) or, within six months of the Program Application Date, will establish a Small-Dollar Loan program and begin offering loans under it not later than six months after the Program Application Date
- The financial institution demonstrates to the sole satisfaction of the Treasurer's Office that its Small-Dollar Loan program has a LLLR Account (defined below)
- Once its Program Application is approved by the Treasurer's Office, the financial institution is deemed to be a Participating Financial Institution
- Using aggregate pool funds or City corporate funds not segregated for special purposes, the Treasurer's Office will then purchase one or more six-month Certificates of Deposit (each of which must pay interest at maturity) from the Participating Financial Institution as a means of generating LLLR Contributions (defined below)
- As each CD matures and its interest is calculated and readied for payment to the City, the Treasurer's Office will deem half (50%) of that interest earning as a City contribution (from City Corporate funds) ("LLLR Contribution") to the LLLR Account, and the Treasurer's Office and Participating Financial Institution will coordinate the deposit of that LLLR Contribution into the appropriate LLLR Account
- The total of LLLR Contributions into an LLLR Account shall not exceed \$250,000 per Participating Financial Institution
- Interest earned by the City on monies in the LLLR Account is deemed to be additional LLLR Contributions to the LLLR Account
- During the operation of its Small-Dollar Loan program, the Participating Financial Institution may be reimbursed by the LLLR Account for Allowed Claims (defined below)

PROGRAM APPLICATIONS

Applications for participation in the Program shall be made by financial institutions on a Program Application form that will be prepared by the Treasurer's Office, which form may be amended from time to time

The Program Application form will seek the following information, at minimum:

- name of financial institution
- affirmation that the financial institution is, as of the application date, a Municipal Depository institution for City funds

- a detailed description of the Small-Dollar Loan program that will be offered at retail by the financial institution if the Program Application is approved by the Treasurer's Office, including:

- underwriting criteria demonstrating that credit scores of prospective borrowers cannot be a criterion for acceptance
- minimum and maximum individual Small-Dollar Loan amounts
- Small-Dollar Loan terms, including payment schedules
- unless prohibited by federal or state law to the contrary, affirmation that Small-Dollar Loan interest rates, including any fees, shall not exceed 36% per annum
- affirmation that Small-Dollar Loans cannot be refinanced or otherwise rolled over
- affirmation that each Small-Dollar Loan shall be held in portfolio and shall not be assigned or transferred
- a pledge to make at least 25 new Small-Dollar Loans per calendar quarter
- a pledge to make an average of at least 100 new Small-Dollar Loans in any given 12-month period under the Program
- a reporting/monitoring system with the Treasurer's Office

- a detailed description of the LLLR Account that will be established by the financial institution if the Program Application is approved, including:

- affirmation that it is interest-bearing
- affirmation that the account will be held in portfolio and shall not be assigned or transferred
- description of the mechanism for funding the account with LLLR Contributions
- affirmation that the account will at all times retain maximum liquidity
- description of the process for Treasurer's Office-approved release of monies from the account to the financial institution only when the institution has documented an Allowed Claim to the Treasurer's Office
- affirmation that the financial institution will not assess any administrative or other fee against the account
- description of the reserving technique (conforming to the requirements of this Program) that the financial institution will use to reserve monies in the account for potential Allowed Claims against loss within the Small-Dollar Loan program

- contact information for primary and secondary contacts for the Small-Dollar Loan program and the LLLR Account

Decisions on Program Applications shall be made solely by the Treasurer's Office. Once approved by the Treasurer's Office, a financial institution shall be deemed a Participating Financial Institution for purposes of this Program

PURCHASE OF CERTIFICATES OF DEPOSIT

Using aggregate pool funds or City corporate funds not segregated for special purposes, the

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Treasurer's Office will purchase one or more six-month Certificates of Deposit (each of which must pay interest at maturity) from time to time under this Program

City shall not be required to purchase any CDs for any particular amount or interest rate, or any particular quantity of CDs

City has sole discretion to increase or decrease its purchase of CDs that are linked to this Program

If Program is terminated for whatever reason as to a particular Participating Financial Institution, then 100% of interest earned from those CDs thereafter is remitted to Treasurer's Office, not to the LLLR Account

FUNDING OF THE LINKED LOAN LOSS RESERVE CONTRIBUTIONS INTO LINKED LOAN LOSS RESERVE ACCOUNTS

Arise solely from 50% of the interest earned by the City from time to time on designated six-month CDs purchased by the Treasurer's Office from Participating Financial Institutions

All such funding, which otherwise would be returned to the City's Corporate fund or the aggregate pool, is deemed to be a grant of Corporate funds to the respective Participating Financial Institutions solely for depositing into the LLLR Account established by the Participating Financial Institutions as part of this Program

Interest earned by the City on monies in the LLLR Account is deemed to be additional LLLR Contributions to the LLLR Account

The total of LLLR Contributions shall not exceed \$250,000 per LLLR Account

LLLR Contributions, once placed in the respective LLLR Account, may be withdrawn only for Allowed Claims (defined below) or for remitting back to the City as set forth herein

Funds in the LLLR Account will not be used to make Small-Dollar Loans or any other loans or uses other than as set forth in this Program

If the Program is terminated, or if the involvement of a Participating Financial Institution is terminated, the LLLR Contributions, if any, existing in a given LLLR Account at the time of termination shall be promptly remitted back to the Treasurer's Office

SMALL-DOLLAR LOAN PROGRAM

Each Participating Financial Institution must create and maintain its own Small-Dollar Loan program to maintain eligibility for participation in this Program. Each such Small-Dollar Loan program must contain, at minimum, the following features:

- must include the parameters set out in its Program Application for the Small-Dollar Loan accounts
- must be offered at retail
- must be publicized as an alternative to 'payday loans'
- may be offered to joint or single borrowers
- must be advertised as restricted to a borrower's 'emergency purposes,' including but not limited to rents, utilities, food, medical, and educational expenses
- must be limited to borrowers whose income is not in excess of 300% of the federal poverty level for the relevant household size, as demonstrated by borrowers' pay stubs, prior tax returns, federal proof of income, or similar evidence
- borrowers must be City of Chicago residents, as demonstrated by borrowers' pay stubs, utility bills or similar evidence
- may not take back a mortgage or lien of any kind on real or personal property, or otherwise be collateralized
- underwriting shall be determined by Participating Financial Institution pending approval of the City Treasurer (at minimum: cannot use borrowers' credit scores, may require borrower to open new checking account with direct deposit feature)
- principal amount per loan cannot be less than \$100 or more than \$1,000
- loan proceeds may be paid in cash to the borrower or to borrower's creditor(s) on behalf of borrower
- in the alternative, loan proceeds may be paid into an account at the Participating Financial Institution in the borrower's name, provided that such account complies with the Bank On Chicago account features and standards set forth under the City's Bank On Chicago program
- loan term per loan cannot be less than 90 days or more than six months
- unless prohibited by federal or state law to the contrary, interest rate and fees shall not exceed 36% per annum, inclusive of fees
- Small-Dollar Loan payment schedule shall be 'straight line' amortization (payable either weekly or monthly) over the entire loan term, and shall be described in clear language to the borrower
- Refinancing or any other rolling over of a loan shall not be available or offered. However, a new Small-Dollar Loan may be offered to a borrower upon the passing of not fewer than 45 days after the full repayment of a prior Small-Dollar Loan by the

borrower

- Savings component is not required, but it is allowable
- Must place at least 25 new Small-Dollar Loans per calendar quarter, and at least 100 new Small-Dollar Loans per 12 months; provided, however, that during the first year a Participating Financial Institution participates in the Program, the minimums are one (1) Small-Dollar Loan per quarter and 40 new Small-Dollar Loans in 12 months

RESERVING WITHIN THE LINKED LOAN LOSS RESERVE ACCOUNT

Each Small-Dollar Loan, once closed and it begins performing, is simultaneously deemed to generate a reserve of a portion of the LLLR Account (which account must be set up and operated according to the parameters for it as set out in the Program Application), as follows:

- the LLLR Account will be deemed reserved at 10% of each dollar in Small-Dollar Loan principal for each such loan that is closed and performing
- Such reserving will proceed until the LLLR Account is fully reserved by any of: (i) reaching the upper limit of LLLR Contributions then in the LLLR Account, (ii) the deemed 10% reserving of outstanding and performing Small-Dollar Loans exceeds the current amount of money then in the LLLR Account, or (iii) reaching the LLLR Account maximum of \$250,000
- Once the LLLR Account is fully reserved, each Small-Dollar Loan closed thereafter is deemed unreserved by the LLLR Account unless and until the reserve within the LLLR Account again becomes available, whereupon the oldest performing unreserved Small-Dollar Loan shall be deemed reserved, and so on
- For each Small-Dollar Loan that is fully repaid to the Participating Financial Institution, if the cumulative dollar value of all other then-outstanding and performing Small-Dollar Loans would be less than the current amount of money then in the LLLR Account, then each such fully repaid Small-Dollar Loan will be deemed to reduce the reserving of the LLLR Account in the amount of 10% of each dollar in Small-Dollar Loan principal so repaid

ALLOWED CLAIM

An Allowed Claim, once documented to the Treasurer's Office, is that dollar amount, when measured at 120 days after the last date the respective Small-Dollar Loan was performing, equal to 10% (i.e., one-tenth) of the sum of (i) the interest (but not future interest) on the Small-Dollar Loan then unpaid, plus (ii) the entire principal of the Small-Dollar Loan then unpaid, if any; provided that the Participating Financial Institution continues to follow its normal processes to maximize the collection of re-payment of said Small-Dollar Loan

PAYMENT FROM THE LINKED LOAN LOSS RESERVE ACCOUNT FOR ALLOWED CLAIMS

Participating Financial Institution shall promptly document, with a copy to the Treasurer's Office upon request within 5 (five) business days, any claim that seeks a payment from the LLLR Account. Such documentation shall include copies of the Small-Dollar Loan documents, any court orders then issued, collection attempt information, and a loan aging report.

Once an Allowed Claim is documented and approved by the Treasurer's Office as set forth above, the Participating Financial Institution shall promptly transfer the dollar amount of such Allowed Claim from the LLLR Account to the Participating Financial Institution

If and when an LLLR Account reaches \$0 due to cumulative Allowed Claims exceeding the available balance of the LLLR Account and the influx of new LLLR Contributions and newly restored collections from recovery of delinquent loans, then the LLLR Account is deemed exhausted and subsequent Allowed Claims cannot be paid. Further, Allowed Claims that cannot be paid because the LLLR Account is exhausted cannot be rolled forward for payment, regardless whether the LLLR Account is later replenished from new LLLR Contributions.

The City of Chicago will not be held liable for any unpaid or unpayable Allowed Claims.

REQUIRED FURTHER COLLECTION EFFORTS

Participating Financial Institution shall continue to pursue all reasonable collection efforts against each delinquent Small-Dollar Loan, regardless whether an Allowed Claim has occurred with respect to such Small-Dollar Loan.

With respect to a given delinquent Small-Dollar Loan, if the Participating Financial Institution recovers funds after an Allowed Claim has occurred, then the Participating Financial Institution shall promptly restore to the LLLR Account an amount equal to 100% of that Allowed Claim, less the Participating Financial Institution's recovery costs (but only to the extent the Participating Financial Institution was not reimbursed by that Allowed Claim for recovery costs). At the same time, Participating Financial Institution shall notify the Treasurer's Office of the restoration and the dollar amount thereof, and will provide copies of supporting and collection documentation to the City.

REPORTS TO TREASURER'S OFFICE; COORDINATION WITH TREASURER'S OFFICE

Each Participating Financial Institution will confer periodically with the Treasurer's Office about the Program:

The Treasurer's Office will establish an on-line mechanism for use by Participating Financial Institutions for monthly, quarterly or other reporting.

Monthly during the operation of this Program, each Participating Financial Institution will provide to the City on the online portal:

- total number of Small-Dollar Loans made
- a statement affirming that each new borrower receiving a Small-Dollar Loan during that prior month met the conditions for being a qualified borrower stated hereinabove
- certify that each outstanding Small-Dollar Loan meets the conditions stated hereinabove
- the total initial principal and the total then-outstanding principal of each outstanding Small-Dollar Loan
- identity of those Small-Dollar Loans that are performing
- for each Small-Dollar Loan that is not performing, a brief written statement discussing its status
- for each Small-Dollar Loan that is in default, a brief written statement discussing its status and a non-binding estimate of the possible dollar amount of an Allowed Claim
- a report on the dollar amount of all Allowed Claims
- a current balance sheet for the LLLR Account
- a statement on how much of the LLLR Account is reserved
- a running report on all Allowed Claims paid out of the LLLR Account

Participating Financial Institution shall create and maintain comprehensive records about the Program for City audit or review purposes.

Participating Financial Institution will provide any additional information as reasonably requested by the Treasurer's Office about the performance of the Program.

COMPLIANCE

The City reserves the right to make random inspections of documents and program activities that are provided or undertaken by Participating Financial Institutions in connection with the Program.

DEFAULT AND REMEDIES

The Treasurer's Office may, but is not required, to declare a Participating Financial Institution in default under the Program if any one or more of the following occurs or fails to occur as required:

- the Participating Financial Institution's Small-Dollar Loan program is not operational

within six months after the City's initial purchase of Program-related CDs

- if, starting six months after the City's initial purchase of Program-related CDs, the Participating Financial Institution's Small-Dollar Loan program fails to place at least 25 loans within a quarter, or at least 100 loans within any 12-month period of the Program
- Small-Dollar Loan program does not meet (or is changed to such an extent that it no longer meets) the City's requirements as set forth in this Program
- Participating Financial Institution drops off the Municipal Depository list
- the Participating Financial Institution fails to meet any of the other obligations and duties set forth under this Program

Remedies available to the Treasurer's Office for default include, but are not limited to:

- early termination (sale), without penalty to the Treasurer's Office, of one or more of the Participating Financial Institution's CDs then being held by the Treasurer's Office
- requiring the Participating Financial Institution to close its LLLR Account and remit the entire balance of same to the Treasurer's Office, notwithstanding that any or all of said LLLR Account is reserved

ANNUAL REVIEW OF PROGRAM; TERMINATION OF PARTICIPATING FINANCIAL INSTITUTION

The Treasurer's Office will conduct an annual review of the Program with respect to each Participating Financial Institution, typically to be held in advance of one or more CD purchases or CD renewals. At that time, the Treasurer's Office will review current outstanding Small-Dollar Loans and any Small-Dollar Loan defaults then in progress. In its sole discretion, the Treasurer's Office may choose to terminate the Program with respect to a Participating Financial Institution at that time.

TERMINATION OF PROGRAM

The Program may be terminated by the City at any time. If so terminated, each Participating Financial Institution then participating in the Program shall, within 45 days thereafter, provide the City a full set of financial reconciliations of the LLLR Accounts and Program-related CDs and a full final set of reports.

GENERAL CONDITIONS, TERMS, AND LIMITATIONS

Each Participating Financial Institution shall, in connection with all publicity about its Small-Dollar Loan program, acknowledge that Treasurer's Office of the City of Chicago has supported

it by funding a loan loss reserve pool.

Participating Financial Institution shall allow City to review and monitor information about the Small-Dollar Loans.

If the Program is terminated before the LLLR Account is deemed fully reserved (as set forth above), or if the Participating Financial Institution no longer participates in the Program, then any LLLR Contributions not then reserved shall be promptly refunded to the City.

No officer, director or employee of Participating Financial Institution (directly or indirectly), or any affiliate of Participating Financial Institution, is eligible to receive any payment from the LLLR Account.

Approximately five years following the date of this Agreement, the City shall review the Program, including a review of current outstanding Small-Dollar Loans and any Small-Dollar Loan defaults then in progress. The Treasurer's Office may invite commentary during the course of the review from the Participating Financial Institutions. A primary objective of this review will be to determine whether the incidence of Allowed Claims against the LLLR Accounts is sufficiently low to warrant the continuation or expansion of the Program.