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June 16, 2000

Manager
Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G. Street, NW
Washington, DC 20552
Attention: Docket No. 2000-44

The Texas Bankers Association ("TBA") submits these comments in response to the proposed joint regulations implementing provisions of the Gramm-Leach-Bliley Act ("GLB") relating to Disclosure and Reporting of CRA-Related Agreements. TBA represents the interests of approximately 800 financial institutions in the state of Texas – from the smallest community banks to the largest nationwide financial service providers. Founded in 1885, TBA is the oldest and largest Texas banking association. TBA participated actively in the Congressional considerations that yielded the Financial Modernization Act and supports the responsible disclosure and monitoring of CRA-related agreements, especially when coupled with the Congressional intent to reduce the CRA regulatory and paperwork burden on financial institutions.

Our concerns about the proposed regulation are as follows:

- The original intent of CRA Sunshine provisions of GLB promoted deterrence of CRA "blackmail". The proposed regulation, however, minimizes reporting & compliance responsibilities for community groups (not in accordance with statute) and maximizes impact on financial institutions.

- The proposed regulation follows the GLB definition of covered "agreement" by requiring a written contract, arrangement or understanding. We recognize that this limited definition represents a delicate balance of the statutory objectives of CRA sunshine, common sense interpretation, and minimizing regulatory burden.

- What is "CRA contact"? The regulation gives extensive detailed focus to defining a "CRA contact" that might set up a reportable transaction. GLB does contemplate this hair-splitting detail. GLB simply provides that a covered agreement does not include agreements with an entity that has "not commented on, testified about or discussed with the institution, or otherwise contacted the institution, concerning the Community Reinvestment Act of 1977". We recommend a common sense approach that minimizes extensive regulatory definition, but excludes contacts that arise as merely incident to ordinary business dealings or are otherwise outside the intended scope of GLB.

  For example, the purchase of CRA tracking software and training from a consulting company was not intended to be covered. A market rate operating loan to a for-profit developer of affordable housing should be exempt – even though the loan may be counted favorably in the bank's CRA evaluation. Any transaction in which the negotiation of the agreement includes a general discussion of the effect of the transaction on the CRA performance of the insured depository institution that is merely incidental

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should not be subject to this regulation – and no detailed regulation language should be necessary to reach that conclusion.

- The regulation preamble invites comment as to whether there should be time limits beyond which CRA contacts will not require the banks to search their institutional memories and run the risk of failure-to-report violations if they do not tie these old contacts to a subsequent agreement and report it. The regulators have suggested two years as the appropriate time frame; we urge that it be limited to one year.

- The preamble also seeks comment as to whether the rule should address the situation where a person has contact with an agency, but the relevant insured depository institution or affiliate does not know the contact occurred. Surely, there is no need to spell out the clear conclusion that the financial institution that does not know about this contact cannot be charged with any responsibility.

- Under the proposed regulation, related agreements are considered a single agreement if entered into with the same person, within the same 12-month period, and are each in fulfillment of the CRA. This is a good interpretation that follows common sense and minimizes the number of reports.

- A consolidated report is allowed under the regulation if there are five or more covered agreements. A consolidated report should be allowed for two or more covered agreements. Affiliated institutions and entities that are parties to the same covered agreement should be allowed to file consolidated reports. There is no good reason for the proliferation of reports, and every reason to reduce paperwork and consolidate reports.

- Allowing financial institutions and community groups to withhold from public disclosure portions of covered agreements that the relevant supervisory agency determines are exempt under the Freedom of Information Act is a good provision in the proposed regulation because it provides responsible confidentiality of certain information. Simplified procedures for deleting proprietary and confidential information would be welcome.

- What is "Fulfillment of the CRA"?
  As required by statute, the Regulation provides a list of factors that banking agencies have determined may have a material impact on an agency's application and rating decisions. Practically speaking, the degree or dollar amount involved in any one of these factors may be so slight that there would be no real impact – and the regulation should explicitly say that.

- Reporting requirements fall more heavily on financial institutions than on community groups in the proposed regulation. Financial institutions must file a copy of a covered agreement with the relevant supervisory agency within 30 days after entering into the agreement, but other entities must provide a copy of the agreement to the agency only within 30 days after the agency's request. TBA does not support this inequitable reporting requirement – and finds it to be in conflict with Congressional intent.

- We do not agree that entities should burden financial institution by filing their reports with the financial institution rather than with the supervisory agency. We understand that

the supervisory agencies are trying to minimize their own paperwork and filing burden – but this should not be done at the expense of the financial institutions.

- The proposed rule requires a nongovernmental entity or person to file an annual report only for a year in which the entity or person has received funds under a covered agreement. The rule should have the same provision for financial institutions, requiring them to file an annual report only for a year in which they have disbursed funds under a covered agreement.

- Annual reports that community groups file to report their use of funds should be specific and detailed. This is the whole purpose of the GLB provisions. When community groups receive CRA related funds, they should be required to report and use the funds for CRA related purposes. General purpose descriptions do not suffice.

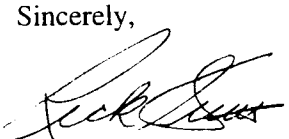
- Enforcement. We would not like to see this regulation used as another enforcement club to be used against financial institutions.

- When will compliance be expected? The agencies propose to adopt a final rule "expeditiously" and at that time, "the parties to covered agreements will be expected promptly to disclose any agreement that is covered by section 711 and was entered into after November 12, 1999, and file an annual report for any covered agreement entered into on or after May 12, 2000." The agencies have requested comment on how the parties to covered agreements entered into after these dates, but before issuance of the final rule should be required to comply with the requirements of the final rule. First, we hope that the agencies will carefully consider the comments we are certain they will receive and revise the rule accordingly. Second, we believe that financial institutions should be given a reasonable time after the adoption of a final rule to search their files for any covered agreements and to comply with the rule – especially if the final rule is as complicated as the proposed version. At least 90 days after the final rule is adopted would be reasonable.

- We are very concerned about the regulatory burden this proposal places on financial institutions – contrary to the purpose of the statute. An analogy would be to pass a law to designed to curtail kidnapping – and then place all the burden on the kidnap victim.

In conclusion, the CRA sunshine provisions of GLB present a straightforward idea. To the extent there are CRA related agreements, they should be made available to the public and to the appropriate supervisory agency. Making the implementing regulation substantially more complicated than the statute will stand Congressional intent on its head, creating yet another regulatory burden and not necessarily accomplishing the full disclosure aims of the statute.

Sincerely,



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