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MARYLAND CENTER for Community Development

July 18, 2000

Manager, Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: Docket No. 2000-44

As the executive director of the Maryland Center for Community Development, I urge you to make significant changes in the proposed "sunshine" regulations. I appreciate that the federal banking agencies had a difficult task of developingregulations for a confusing statute. And I appreciate that you have taken steps to reduce the burden for neighborhood organizations, banks,a nd other parties interested in community development.

However, I believe that the sunshine statute strikes at the heart of the Community Reinvestment Act (CRA) and the significant good work that has been done in building working relationships between community organizations and banks. The essence of the Community Reinvestment Act is encouraging members of teh general public to articulate credit needs adn engage in dialogue with banks and federal banking agencies. CRA stimulates collaboration for the purpose of revitalizaing inner city and rural communities, and meets a market that would not otherwise be recognized. I have seen the good that it can do, and how it helps the banks as well as the communities. The sunshine statute, but making CRA-related speech suspect, threatens to reverse more than twenty years of bank-community partnerships and progress.

The sunshine statute requires banks, community organizations, and a large number of other parties to disclose private contracts to federal agencies if the parties engage in so-called CRA "contacts" or discussions about how to help the bank make more loans and investments ain low- and moderate-income communities. As a private sector organization that does those discussions nearly every day as a liaison between CDCs and the lending community, I find it troublesome that I have

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to disclose a contract I have with a bank and provide detail on how I spent grant or loan dollars under the contract beyond what I am doing already in my responsibility as a nonprofit corporation reporting to the public. The result will be fewer loans and investments reaching the communities I serve. My job, and those of other nonprofit organizations and of the banks, will become more difficult.

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, MCCD asks that the federel banking agencies refrain from implementing the CRA contact rules until they have sought an opinion from the Dept. of Justice's Office of Legal Counsel regarding its constitutionality. It would be nearly impossible for me to report to you every conversation with a bank that I have about how they could improve their work and business in the communities in Maryland, unless you will permit me to simply mail you my daily calendar book? Even if I tried to differentiate which conversations were initiated by my office instead of by the financial institution it would be nearly impossible.

Instead of using CRA contacts as a trigger for disclosure, I believe that the federal banking agencies should revise their material impact standard. MCCD believes that a CRA agreement or contract should not be required to be disclosed unless it requires abank to make a great number of loans, investments, and services in more than one of its markets. The federal banking agencies have propsoed that agreements are subject to disclosure if they specify any level of CRA-related loans, investments, and services. But only a higher number of loans and investments in more than one market is likely to have a material impact on a CRA rating or a decision ona merger application.

The agency interpretation of material impact will result in an unweildy regulation. Simply put, hundreds or thousands of small contacts with community development organizations and others may have to be disclosed, reported on, monitored, etc. This is a ridiculous burden for a grant of a couple thousand, or for a few small loans.

MCCD receives grants from banks that want to support our work, and that know that the work we do in building the strength of the community development industry is good for them, builds their base for loans and investments. I already report on those grants in my regular organizational reporting to the federal government, the state government, and to my public here in Maryland. That should be sufficient. MCCD recently was approved for a line of credit from a bank for our corporate bank account, for cash flow/over-draft protection. I have no way of knowing whether I secured a favorable rate on that and whether it was because of CRA or because they valued my organization as a customer and a community entity. Would I have to report that to you each year?

Under the procedures of general operating grants, MCCD asks the Federal agencies to specify in the final regulation that the use of IRS Form 990 is an

acceptable means of disclosure. In their preamble to the draft regulation, the federal agencies state that the 990 form provides more than enough detail for satisfying disclosure requirements. Codifying the use of 990 forms would simplify reporting requirements and reduce burdens for nonprofit organizations that are very familiar with the 990 and complete it currently.

The public record from the Congressional deliberations over the Gramm-Leach-Bliley Act support the use of the IRS 990 form. The Manager's report accompanying the legislation states that a Federal income tax return is an acceptable means of disclosure. In addition, Representatives Jim Leach (R-IA) and John LaFalce (D-NY) engaged in a colloguy on the eve of the House vote on Gramm-Leach-Bliley in which they emphasized the use of Federal income tax returns as satisfying the disclosure requirements.

MCCD also supports the proposed reporting procedures for specific grants. If a nonprofit organization received grants or loans for a specific purpose such as purchasing computers or providing financial literacy counseling, the nonprofit organization should be able to comply with the disclosure requirement by describing the specific activity in a few sentences.

MCCD also agrees with the Federal agencies that non-governmental parties should not be required to submit annual reports during the years in which they did not receive grants or loans under any agreement. While other organizations may have received grants or loans under the agreement, it would be logistically impractical for the negotiating party to report on how the grants and loans were used by the other parties. It is also unreasonable for the non-negotiating parties to be required to report since they may not even be aware that they received grants or loans because of a CRA agreement. Unless the bank tells them they may not know. In many cases, large banks may be making relatively small grants to hundreds of community groups over a multi-state area as a result of an agreement negotiated by a regional or national organization based elsewhere.

While it may be impossible for the so-called sunshine provisions to be non-meddlesome, I believe they could be made much less intrusive and less burdensome. We urge the federal banking agencies to adopt these suggestions for streamlining the sunshine regulation. We must also add that we will be doing what we can to repeal this counter-productive statute, so that the private sector will not be burdened with disclosure requirements simply because they want to do business in and help to revitalize traditionally underserved neighborhoods.

Sincerely,

Becky Sherblom
Executive Director