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**From:** Hurwitz, Evelyn S on behalf of Public Info  
**Sent:** Friday, July 21, 2000 9:37 AM  
**To:** Gottlieb, Mary H  
**Subject:** FW: Comments on Sunshine Provisions of the financial modernization bill

-----Original Message-----

From: SAdams7943@aol.com [mailto:SAdams7943@aol.com]  
Sent: Thursday, July 20, 2000 5:42 PM  
To: public.info@ots.treas.gov  
Cc: jsilver@ncrc.org  
Subject: Comments on Sunshine Provisions of the financial modernization bill

TO WHOM IT MAY CONCERN

RE: Docket No. R-1069

As an executive director of the North Carolina Fair Housing Center I urge you to make significant changes in the proposed "sunshine" regulations. I appreciate that the federal banking agencies had a difficult task of developing regulations for a pattenly unconstitutional statute.

I believe, however, that the sunshine statute strikes at the heart of the Community Reinvestment Act (CRA). The essence of the Community Reinvestment Act is encouraging members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. CRA stimulates collaboration for the purpose of revitalizing inner city and rural communities. The sunshine statute, by making CRA-related speech suspect, threatens to reverse more than twenty years of bank-community partnerships and progress and serves to erode our fundamental first amendment rights of freedom of association, freedom of speech and freedom to petition our government.

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 in low- and moderate-income communities. Many private sector organizations will simply do less CRA-related business since they will not want to deal with the disclosure requirements. The result will be fewer loans and investments reaching the communities I work in. My job of insuring equal access to capital for all segments of the community will become much harder.

## CRA Contacts

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, the North Carolina Fair Housing Center asks that the federal banking agencies refrain from implementing the CRA contact rules until they have sought an opinion from the Department of Justice's Office of Legal Counsel regarding its constitutionality. In addition, the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts. The North Carolina Fair Housing Center asks the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

ISenator Phil Gramm (R-TX), in a lengthy interview in the American Banker on June 9 suggests that disclosure requirements should apply to pledges that are made unilaterally by banks and that are not signed by non-governmental third parties. The Gramm-Leach-Bliley Act simply does not include unilateral pledges as contracts requiring disclosure. To make matters worse, the Senator suggests that "any meeting between a community group and a bank about CRA investments should trigger disclosure requirements." An indefinite time period as the Senator suggests will result in enormous burdens by all parties in remembering and tracking any meetings or negotiations concerning loans, investments, and grants in traditionally underserved communities.

## Means of Disclosure

Under the procedures of general operating grants, The North Carolina Fair Housing Center 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.

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 colloquy 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.

## Who Must Report

The North Carolina Fair Housing Center 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 the agreement. While other organizations may have received grants and 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. In many cases, large banks may be making relatively small grants to hundreds of community groups over a multi-state area. 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.

#### In Conclusion

The North Carolina Fair Housing Center feels strongly that these so-called sunshine provisions encroach on our first amendment freedoms. The Center currently does not receive any funds from financial institutions but has participated in the negotiation of over 3.5 billion dollars in commitments to low wealth and minority neighborhoods. The Center often comments on the CRA and fair lending performance of banks and will continue to do so. The Center will challenge any infringement on its constitutional rights and its capacity to fulfill its missions.

Sincerely,

Stella J. Adams  
Executive Director  
North Carolina Fair Housing Center