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Seedco
*Innovations in Community Development*

July 19, 2000

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

**ATTN: Docket No. 2000 - 44**

To Whom It May Concern:

Seedco welcomes the opportunity to comment on the proposed rule that implements provisions of the recently enacted Gramm-Leach-Bliley Act contained in the Federal Register, vol. 64, No. 98. Seedco is a CDFI certified, national community development intermediary.

## General Comments

The proposed rule assumes that both the nongovernmental entity and the insured depository institution are in agreement regarding whether an agreement is "a covered agreement." However, given the vagueness that remains in spite of the attempts of the joint proposers to clarify when reporting is required, there may be numerous instances in which one entity feels that reporting is required, while the other believes that such reporting is not required. One way to resolve this would be to require some discussion between the entities regarding each entity's perception of whether the agreement is covered. However, any such requirement would likely result in the agreement's *becoming* covered since some of the aspects of 35.2(b)(2)(A) would likely be discussed. Therefore, some mechanism should be developed for dealing with such differences and any requirement that there be discussion between the parties due to such a disagreement should explicitly state that the discussion – no matter how in depth as to the bank's CRA performance – cannot be the basis of retroactively becoming a "covered agreement." Any such mechanism should include a tolling of reporting requirement by the non-reporting entity until some period (perhaps 90 days) after it is notified that the other entity has reported.

## Specific Comments

1) Section 35.2(b)(2) should make clear that a CRA contact does not include the direction from the insured depository institution as to the "community" or the types of investments in which

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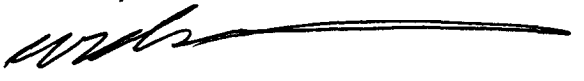
any loan or grant funds must be spent. Our organization, which is a *national* fiscal intermediary, solicits funds for our loan fund from both insured depository institutions and other funding sources. In virtually all instances, we will inquire or be told the communities in which we may use such loan funds and/or the types of loans for which these funds may be used. For example, a particular foundation may target certain cities on the East Coast and will require that part or all of the loan funds it provides be used in those areas. Similarly, we realize that loans granted to us by an insured depository institution – whether or not we have had a discussion about CRA requirements – will be used by the insured depository institution to gain CRA credit. Thus, we will ask about the "communities" in which the funds can be used. We believe that this type of discussion should *not* be considered a "CRA contact" because it was completely ancillary to the overall negotiation.

2) The proposed rule invites comments on whether the agencies should define when loans are made at "substantially below market rates" and, if so, what that definition should be. In Seedco's experience with insured depository institutions, the London Interbank Offered Rate (LIBOR) has been used as a base index for the rate on the debt issued. LIBOR's cost of money is a widely monitored international interest rate indicator and the most widely used index in commercial lending. LIBOR is currently being used by both Fannie Mae and Freddie Mac as an index on the loans they purchase. We recommend that the agencies develop a formula, based on LIBOR, for determining whether the loan in question bears a rate that is substantially below the market rate. For example, a rate less than LIBOR minus 2% could be classified as "substantially" below the market rate. Essentially, this comment suggests that LIBOR, as opposed to another index (e.g., Prime Lending Rate or 11$^{th}$ District Cost of Funds), be used as the base index for an insured depository institution making a community investment loan. Given that LIBOR is typically several percentage points lower than the Prime Lending Rate, it is logical that it would be used as a base index for community development lending, which loans are usually made on a below-market rate basis.

Seedco appreciates the opportunity to comment on this proposed rule. If you have any questions, please contact Seedco's General Counsel, Solomon Malach, at (212) 473-0255 ext. 308.

Sincerely,



William J. Grinker
President