MCSA

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It Helps to Get Things DONE!

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

Attention: Docket No. 2000-44

As an executive director of a community development corporation, 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 confusing and mean-spirited statute. And in fact, the regulatory agencies have taken steps to reduce the burden for neighborhood organizations, banks, and other parties interested in community development.

I believe, however, that the sunshine statute strikes at the heart of the Community Reinvestment Act (CRA). The essence of the CRA is encouraging members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. The 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.

The sunshine statute requires banks, community development 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. As a private sector organization, I find it troublesome that I have to disclose a contract I have with a bank and provide details on how I spent grant or loan dollars under the contract. 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 revitalizing communities will become much harder.

CRA Contacts

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, the Muscatine Center for Strategic Action (MCSA) 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 Muscatine Center for Strategic Action asks the Federal Reserve board to eliminate all CRA contacts as a trigger for disclosure.

Material Impact

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. MCSA believes that a CRA agreement or contact should not be required to be disclosed unless it requires a bank to make a greater number of loans, investments, and services in more than one of its markets. The federal banking agencies have proposed 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 on a merger application.

The agency interpretation of material impact will result in an unwieldy regulation. Simply put, hundreds, if not thousands of contracts with community development corporations and other organizations may have to be disclosed. MCSA recently received a construction loan of more than $50,000 or a grant of more than $10,000 from a bank to remodel our homeless shelter. If the material impact standard is not changed, the agencies will be deluged with thousands of letters, written understandings, or contracts about these types of loans and grants made to nonprofit organizations and for-profit companies working in low and moderate-income communities.

MCSA did not receive our grant or loan as a result of an agreement made when a bank was merging or before a bank's CRA exam. We received the grant or loan because the bank wants to do business in my neighborhood. To make the sunshine regulation more reasonable, we suggest that it should focus on agreements made during the public comment period on a merger application or during the time period when a CRA exam is announced and when the exam occurs.

Senator 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 "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 to 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, MCSA 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 supports 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.

MCSA 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.

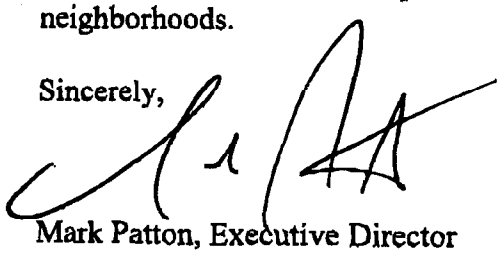
Who Must Report

MCSA 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 other parties. In many cases, large banks may be making relatively small grants to hundreds or 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

While it may be impossible for the so-called sunshine provision to be a non-meddlesome regulation, we believe that our suggestions reduce the burden and the damage it causes to revitalize inner city and rural communities. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation. We must also add that we will be working with community organizations, local public agencies, banks, and other concerned parties to repeal this counter-productive statute so that the private sector will no be burdened with disclosure requirements simply because they want to do business in and help revitalize traditionally underserved neighborhoods.

Sincerely,



Mark Patton, Executive Director
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