HAC

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

Attention: Docket No. 2000-44

To Whom It May Concern:

The proposed 'sunshine' rules would frustrate the Community Reinvestment Act (CRA) of 1977 and limit the opportunity to build important relationships between lending institutions and low-income and minority communities. By forcing non-governmental entities and persons (NGEPs) and lenders to report on the written agreements that are made in the context of reinvestment efforts, the proposed rules could effectively discourage either side from participating in these dialogues. The reporting requirements are complex and cumbersome in ways that limit the free speech of community reinvestment advocates, complicate the relationships between lenders and community groups, and are likely to reduce outreach to low-income communities.

The Housing Assistance Council (HAC) is a national nonprofit organization dedicated to improving housing conditions in rural America. In addition to our technical assistance and research activities, HAC is also a community development financial institution (CDFI). We administer several loan funds which provide much needed resources to local organizations to produce decent, affordable housing for low-income rural residents. This work has greatly benefitted from relationships with lending institutions and these relationships have developed, in large part, because of the CRA. HAC is concerned that the proposed rules to implement the Gramm-Leach-Bliley (GLB) Act will seriously undermine the CRA and consequently, limit future efforts to develop low- and moderate-income rural communities.

The proposed rule would strike a major blow to the integrity of the CRA. This law was passed to protect the interests of low-income communities and provide access to credit and financial services for low-income residents. Over 45 percent of all rural households have incomes at or below 80 percent of the area median income and are considered low-income. Low-income rural residents, specifically, suffer from a number of credit access issues that have been addressed through CRA activism. Unlike previous attempts to secure equal access to credit, the CRA gives residents and advocates the ability to comment publicly on lender activity in their communities. These public comments on lending activity have led to dialogues between community groups and lending institutions about the credit needs of low-income communities and the tools that can be used to meet these needs. Because of these discussions banks and community

organizations have come together to talk over issues and concerns and share resources to find solutions. These efforts are the foundation of rebuilding communities that have been devastated by years of disinvestment.

Over our organization's 30 year history, several banks have approached HAC looking to invest in underserved rural areas and gain information on how to service rural markets. We have been approached by large and small banks to participate in lending arrangements and I, personally, have been asked to sit on the board of projects to extend credit in rural areas. Under the proposed rules these activities would become questionable, as they may constitute 'CRA contact' and thus obligate both the lender and our organization to annual reporting requirements. Given this possibility, fewer banks may be willing to forge these relationships and many NGEPs will lack the resources to participate in relationships with banks.

The annual reporting requirements that would be triggered by 'CRA contacts' as outlined in the proposed rule will lead to confusion and hesitancy between nonprofit organizations and lending institutions. Many of the activities that would trigger the proposed reporting requirements are arbitrary and vague. For example, the definition of a CRA agreement covers many activities that define the everyday work that occurs between nonprofit housing developers and lending institutions. According to the proposed rule, if an organization sends a bank a letter requesting a grant of $15,000 to support a conference or to cover operating costs and the bank agrees in writing to provide the grant, this exchange could constitute a CRA agreement and therefore trigger the reporting requirement. Rules such as these are too broadly applied and will confuse lenders and groups. Organizations will be forced to second guess their every contact with banks and lenders will hesitate to provide much needed resources, as they might trigger the reporting requirements. We recommend that CRA agreements should be narrowly defined to include only those written contracts between NGEPs and lending institutions.

The proposed reporting requirements are also arbitrary in their application. The requirements are not triggered if a public comment is made at the request of the regulator or the lending institution. However, groups that comment based on their own analysis of lending activity in their communities are penalized with reporting requirements. We are concerned that this criterion, in particular, will benefit large, urban advocates and work against smaller, rural based groups. It has been our experience that rural areas are often overlooked in matters such as these, as there are smaller populations and fewer lending institutions in rural communities. Consequently, if small, rural organizations want to participate in the CRA process they will most likely have to do so at the risk of triggering the reporting requirements. Many NGEPs, particularly those in rural communities, have few staff members and little capacity. These organizations lack the resources necessary to devote to reporting on their contacts with lenders and the results of these activities. For this reason, we recommend that all comments to regulators be treated the same, regardless of how they are solicited.

In order to reduce the confusion surrounding 'CRA contact' and reporting requirements, a time frame should be applied. A discussion that occurred two years ago between an NGEP and a

lending institution should not constitute a 'CRA contact' today. A six month time limit should be applied to 'CRA contacts' to protect all parties from unwittingly violating the rules. However, we argue that deciding who established contact and when will be difficult to determine and enforce.

An NGEP should not be required to report during any fiscal year that they did not receive funds. In order to reduce the undue burden that will fall on those NGEPs that do publicly comment on CRA and receive financial resources, we recommend the use of an entity's federal IRS 990 form or other general financial reporting form for reporting purposes. NGEPs should not have to prepare additional financial statements for the purposes of 'sunshine.'

HAC also believes that the enforcement of the proposed rules would be largely unfair and one-sided. While there are significant repercussions for nonprofit organizations and advocates who do not conform with an agreement, lending institutions are not held accountable to agreements at all. As regulators of the lending institutions, the federal agencies are in a suitable position to hold banks accountable to CRA agreements in the same way that you are seeking to hold other entities accountable. We recommend that if CRA agreements are going to be exposed to sunshine, the light should shine on both sides. Banks should be held accountable to providing the level of service committed, just as nonprofit organizations are held responsible to fulfilling the terms of the agreement.

HAC appreciates the opportunity to comment on the proposed rules to implement the financial modernization legislation. We feel that public input is an important part of the democratic process and hope that the final rules will work to preserve these opportunities in CRA activism. Please feel free to contact me if you have any questions regarding the above comments.

Sincerely,

Joe Belden/for

Moises Loza
Executive Director