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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

Comments on Agencies Proposed Rule on Disclosure & Reporting on CRA-Related Agreements

I am writing on behalf of the Chicago Association of Neighborhood Development Organizations (CANDO), a non-profit coalition of community economic development organizations, to urge you to make significant changes in the proposed Community Reinvestment Act "sunshine" regulations. These regulations threaten investment in lower-income areas and seek to punish organizations for discussing the credit needs of our communities. CRA is crucial to the economic regeneration of lower-income communities and these proposed regulations should not be designed to hinder its impact.

As both an advocate for and a direct participant in viable economic development strategies in Chicago's neighborhoods, CANDO has witnessed firsthand the positive impact that CRA has had in lower-income areas. CANDO's *City-wide Development Corporation [CDC]* is certified by the US Treasury Department as a Community Development Financial Institution. Because of CRA, many of Chicago's largest financial institutions have made equity-equivalent investments in excess of $50,000 for CANDO's *Self Employment Loan Fund [SELF]*, a program that makes small loans to entrepreneurs who are unable to obtain conventional bank financing. Several financial institutions annually provide grants in excess of $10,000 for the program operations of SELF or as a general operating grant for CANDO's overall mission of revitalizing Chicago's neighborhoods.

Additionally, CRA-related discussions between banks and non-profit members of the National Community Reinvestment Coalition have designed innovative new lending products like *Community Express*, an SBA program that CANDO has helped to promote, which is tailored to meet the needs of growing businesses in low- and moderate-income areas. The incentive of an improved CRA rating has consistently spurred banks to make investments in areas that have been traditionally under-served. It should be in the national interest of the federal government to see that continue. CANDO would, therefore, like to recommend that the following changes be implemented immediately:

CRA Contacts

This section of the proposed rules is the most insidious infringement on freedom of speech. If promulgated as proposed, it will prove to be a nightmare to implement and a barrier to the fundamental dialogue necessary to identify and address community credit needs.

A community group that chooses to testify on its own volition at a merger hearing becomes subject to disclosure. However, the proposed rules exempt a community group from disclosure if a federal

regulatory agency asked the community group for comments on a pending CRA exam or if the community group made CRA-related comments at widely attended conferences or symposium.

Such a carve-out compounds the First Amendment violation and would subvert the CRA process. Under this proposal, the Federal agencies can contact community groups that are predisposed to say what the agencies want to hear about CRA, and then these groups are exempt from disclosure requirements. Also, the Federal agencies can exempt CRA comments at their conferences but, of course, apply disclosure requirements during CRA public hearings on mergers. The solution to this arbitrariness is to simply rule that comments during merger applications, CRA exams, or at any other point in the CRA process do not trigger disclosure requirements since the Federal agencies invited the comments through their own regulations implementing long-standing banking law.

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 communities. The sunshine statute, by negatively discouraging CRA-related speech suspect threatens to reverse more than twenty years of bank-community partnerships and progress.

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. The federal banking agencies have proposed that agreements be 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. In fact, bank regulators are examining actual performance not paper commitments in determining CRA grades.

In a June 9th interview with the American Banker, Senator Gramm 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 under-served communities.

Groups covered by the sunshine provisions should not be subject to such time-unlimited reporting requirements. Only CRA contacts that occur in the six months before a CRA agreement should trigger reporting of an agreement. To cover the situations where a CRA contact is made after a CRA agreement, contacts that occur up to three months after an agreement is reached could also be counted as a trigger for CRA-related reporting.

Under the statute, the Federal Reserve Board has the authority to exempt agreements and CRA contacts from disclosure requirements. Thus, the Board also has the ability to decide that CRA-related speech is not grounds for triggering disclosure requirements. The Federal Reserve Board should use its authority under the statute to refrain from implementing the CRA contact provisions. Because of the profound damage that the CRA contact portion of the sunshine statute will cause, the federal banking agencies should at least refrain from implementing the CRA contact rules until they have sought an opinion from the Department of Justice's Office of Legal Counsel.

Reporting Requirements

As a city-wide coalition, CANDO historically has advocated for increased lending, grant-making and investments for Chicago's neighborhoods. That's our job. We have directly participated in the design of several ongoing effective CRA agreements. While CANDO itself receives financial support and investments from our bank partners, our specific grant or investment requests have never been part of those agreement discussions. Furthermore, CANDO neighborhood members, who also may have received grants or investments, often are not even part of these discussions designing such agreements.

Thus, these proposed regulations would penalize a non-profit group, whose quality work has earned bank support, with a reporting burden that they don't deserve.

To minimize the reporting burden on community organizations, the reporting requirements should be satisfied by existing reports. A non-profit's IRS 990 form should allow sufficient reporting of expenditures for general operating grants. This form contains more than enough information to examine major categories of expenditures. A summary program report could be allowed where an organization has project specific grants. As a CDFI, for example, we have in our application for certification to the US Treasury Department listed current and projected grants and investments from specified bank partners. Such files should already be accessible by bank regulators.

We appreciate that the federal banking agencies have a difficult task of developing regulations for a confusing statute. We urge the federal agencies to revise the proposed sunshine regulations to reduce the potential damage they may cause to the goal of revitalizing America's communities.

Sincerely,

Ted Wysocki
President & CEO