(119)

From: Hurwitz, Evelyn S on behalf of Public Info
Sent: Thursday, July 20, 2000 2:36 PM
To: Gottlieb, Mary H
Subject: FW: comments on proposed cra sunshine regulations

-----Original Message-----
From: Brad Lander [mailto:BLander@FIFTHAVE.ORG]
Sent: Thursday, July 20, 2000 1:00 PM
To: 'regs.comments@federalreserve.gov'; 'regs.comments@occ.treas.gov'; 'comments@fdic.gov'; 'public.info@ots.treas.gov'
Cc: 'nedapny@aol.com'; 'anhd@peacenet.org'
Subject: comments on proposed cra sunshine regulations

From:
Fifth Avenue Committee
141 Fifth Avenue
Brooklyn, New York 11217
July 20th, 2000

To:
Ms. Jennifer J. Johnson
Board of Governors of the Federal Reserve System
20th and C Streets NW
Washington DC 20551
Re: Docket No. R-1069

Communications Division
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20019
Attention: Docket No. 00-11

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: Comments/OES

Manager, Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: Docket No. 2000-44

Re: Community Reinvestment Act "Sunshine Provisions"

Dear Madam/Sir:

The Fifth Avenue Committee (FAC), a community development group in Brooklyn,
New York, pleads with you to make major changes in the proposed "sunshine"
regulations. As drafted, these regulations will significantly harm our ability to promote community development and reinvestment in our community.
We need your help in changing these regulations, so that we can continue to

create affordable housing and economic opportunity for tens of thousands of people in our community.

FAC advances social and economic justice in South Brooklyn, principally through developing and managing affordable housing, creating economic opportunity, and organizing residents and workers. We have created over 600 units of affordable housing and over 300 jobs for local residents. We have launched two community-owned businesses. And we have helped thousands of other residents of our community address critical issues of housing, jobs, education, and community revitalization. As Governor Gramlich of the Federal Reserve saw when he came to visit our community this spring, our entire neighborhood has been transformed through investments in community development.

The Community Reinvestment Act has been fundamental to our success. It has enabled us to enter into partnerships with more than a dozen banks, in order to leverage more than $50 million of investment into our community for affordable housing and the creation of economic opportunity. Banks have gone from redlining our community to being enthusiastic partners. This was never a result of any sort of "coercion," a preposterous and completely disingenuous suggestion, but through a constructive dialogue that bank officers invariably reported was productive and engaging. We are now fortunate to have financial institutions that want to invest in our community and organization. This has been the result of hard work made possible by CRA. Please do not allow this hard work to be undermined and set back by chilling regulations that discourage partnerships that work.

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

As a private sector organization, we find it outrageous that we would have to disclose a contract we have with a bank and provide detail to the government on how we spent grant or loan dollars under a private contract.
Many financial service 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 our communities.

CRA Contacts
We ask that the federal banking agencies refrain from implementing the CRA contact rules until you have sought an opinion from the Department of Justice's Office of Legal Counsel regarding its constitutionality. In addition, we understand that you have the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts. We ask

that
you 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.
A single CRA agreement is very unlikely to affect a bank's CRA rating. Such
agreements therefore should not be required to be disclosed unless they
require a bank to make a greater number of loans, investments, and services
in more than one of its markets, or are somehow so significant that they
would materially affect a bank's rating. 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.

A simple example, and only one of many from our organization alone: We are
working to create a new business, an oil-change business that will train
hundreds of people, over time, to become auto mechanics and move toward
economic self-sufficiency. For this project, we have received
acquisition
or construction loans of over $50,000 from four banks, and grants of over
$10,000 from another three. 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. This project alone would require seven such
disclosures, and it is only one of many projects, just in our community.

We did not receive these grants and loans as a result of an agreement made
when a bank was merging or before a bank's CRA exam. We received them
because the bank wants to do business in our neighborhood and promote the
public purpose of helping people obtain the training and work experience
that will enable them to move toward economic independence. 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 between when a CRA exam is announced and when the
exam occurs.

Means of Disclosure - Use of IRS Form 990
Under the procedures of general operating grants, we ask 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.

We ask that you eliminate the distinction between general operating grants and purpose-specific grants. This is an artificial distinction that will create enormous headache in reporting. We should be allowed to use our Form 990 to report on all of the funds that we receive in this way. In addition, this would require that we be allowed to submit reports that correspond to our fiscal year, not the calendar year. If the IRS accepts this, it should certainly be acceptable to you as well.

Who Must Report
We agree 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 conslusion, we beseech you to adopt our suggestions for streamlining and clarifying the sunshine regulation, and to be as careful as you possibly can to effect regulations that do not reduce the effectiveness of CRA and harm our communities.

Thank you for your consideration

Sincerely,

Brad Lander
Executive Director
Fifth Avenue Committee

Brad Lander
Fifth Avenue Committee, Inc.
141 Fifth Avenue
Brooklyn, NY 11217
(718) 857-2990 ext. 16 phone
(718) 857-4322 fax
blander@fifthave.org
http:\\www.fifthave.org