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5 pages

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**Inner City Press/Community on the Move
&
Inner City Public Interest Law Center**

**Headquarters Office
1919 Washington Avenue Bronx, NY 10457**

TEL: (718) 716-3540 - FAX: (718) 716-3161 E-Mail: innercity1@aol.com

FACSIMILE TRANSMITTAL FORM

TO: Board of Governors of the Federal Reserve System
Attn: Ms. Jennifer J. Johnson, Secretary
20th and C Streets, N.W.
Washington, D.C. 20551

Office of the Comptroller of the Currency
Communications Division
250 E Street, S.W.
Washington, D.C. 20219

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

Federal Deposit Insurance Corporation
Robert E. Feldman, Executive Secretary
Attn: Comments/OES
550 17th Street, N.W.
Washington, D.C. 20429

Re: Proposed Regulation on Disclosure and Reporting of CRA-
Related Agreements

FROM: Matthew Lee, Esq., Executive Director

DATE: July 18, 2000

of Pages: This transmittal sheet; 4 page timely comment letter = 5

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WASHINGTON, D.C. 20552

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Re: Proposed Regulation on Disclosure and Reporting of CRA-Related Agreements

To Whom It May Concern:

On behalf on Inner City Press / Community on the Move and its members and affiliates, including the Inner City Public Interest Law Center (collectively, "ICP"), this is a comment on the proposed regulation implementing Section 711 of the Gramm-Leach-Bliley Act, "Disclosure and Reporting of CRA-Related Agreements."

ICP is a member of, and the undersigned is a member of the board of directors of, the National Community Reinvestment Coalition ("NCRC"); ICP concurs with NCRC's comments on the regulations, particularly with its appendix on the First Amendment problems created by Section 711, and the Regulation. In this comment, ICP will focus on the ways the proposed regulation exacerbates the First Amendment problems of Section 711.

The plain language of the First Amendment provides in pertinent part that "Congress shall make no law... abridging... the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Section 711 targets people who seek enforcement by the Government of the Community Reinvestment Act ("CRA") of the related fair lending laws; the targeting is made clear by the exclusion from coverage of "any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person who has not commented on, testified about, or discussed with the institution, or otherwise contacted the institution, concerning the Community Reinvestment Act of 1977." Section 48(e)(1)(B)(iii). This targeting of a burden on only those who petition the Government for a redress of grievances is, we believe, unconstitutional.

The proposed regulation, however, makes the First Amendment problem worse. Dispositively, at § 2(b)(iii), the proposed regulation engages in even more invidious targeting, removing for the definition of "CRA contact" any statement made "at a widely attended conference or seminar regarding a general topic," or a comment made "in response to a direct request by the agency for comments or testimony from that person. Direct requests for comments or testimony do not include a general invitation by a Federal banking agency for comments or testimony from the public in connection with a[n]... application for a deposit facility by [] an insured depository institution."

The first-quoted exemption makes clear that only actual "petitioning the Government for a redress of grievances" is being targeted. The CRA is only enforced in connection with insured depository institution's applications for deposit facilities. The proposed regulation, even more than Section 711, targets the only enforcement mechanism, the only mechanism to petition for redress of [CRA] grievances. The proposed regulation's attempt to exclude comments that they have specifically solicited is self-serving. The current Bank Merger Act and Bank Holding Company Act (and HOLA) require the

agencies to public notice of, and invite comments on, applications for deposit facilities, specifically on CRA issues. The agencies' proposal to exempt organizations on a case-by-case basis, by even more specifically inviting comments, would lead to an arbitrary and unconstitutional process, further chilling speech and the public's right to petition the agencies for a redress of grievances. One might surmise that the agencies propose this exemption because they know that to request comments, and then impose of burden or "abridgment" of rights, is problematic. By the logic of this proposed exemption-- that the effect of Section 711 and the proposed regulation would foreseeably be to deprive the agencies of comments from organizations seeking, as most burden-avoiding enterprises do, to avoid the (ill-defined) burdens and penalties of Section 711 and the proposed regulation -- the agencies should exempt from the definition of CRA Contact any communication submitted after publication of a notice explicitly soliciting comments.

Another irony to Section 711 and the proposed regulation is that the bank regulatory agencies would become, in effect, regulators and supervisors of non-insured, grassroots community groups. The bank regulatory agencies have neither the expertise nor, ICP contends, the authority for this. It would also create a conflict, in that grassroots community groups have been at the forefront of petitioning the agencies for a redress of (CRA) grievances. The proposed regulation does not cure, and in some cases exacerbates the problems, including First Amendment problems, of Section 711. These proposed regulations should not be adopted. Due to the confusion already created (Section 711 by its terms became fully effective on May 12, 2000, but no regulation has yet been adopted, and this proposal cannot legitimately be adopted), the agencies (as they did on privacy issues) should explicitly extend the May 12, 2000 date, so that a more reasoned, less constitutionally problematic, regulation might be developed, in a rulemaking proceeding subject to the full Administrative Procedure Act. For that proceeding, ICP support, as reporting, non-profits' IRS Form 990 (and where applicable, 990-EZ).

Thank you for your attention. If you have any questions, please telephone the undersigned, at (718) 716-3540.

Very Truly Yours,

Matthew Lee
Matthew Lee

Executive Director

Inner City Press/Community on the Move

& Inner City Public Interest Law Center

1919 Washington Avenue

Bronx, NY 10457

Tel: 718-716-3540

Fax: 718-716-3161