



July 7, 2000

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

Dear OTS:

The Texas Community Reinvestment Coalition (TCRC) believes that significant changes are necessary in implementing the proposed "sunshine" regulations. We appreciate the difficult task the federal banking agencies had in developing these regulations. In fact, the regulatory agencies have taken steps to reduce this burden.

However, we believe that the sunshine statute strikes at the heart of the Community Reinvestment Act (CRA). The essence of the CRA is to encourage 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 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 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. While TCRC has not received any CRA-related funding, it is still troublesome to us that other groups will have to disclose contracts with banks and provide details on how grant or loan dollars are spent under the contract. Many private sector organizations will simply do less CRA-related business rather than deal with the disclosure requirements. The result will be fewer loans and investments reaching the communities in which I work. Our job of revitalizing communities will become much harder.

CRA Contacts and Disclosure

TCRC believes that the CRA contact portion of the sunshine provision will cause profound damage. We ask 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. TCRC asks the OTS to urge the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

Material Impact

TCRC does not believe that CRA contacts should be used as a trigger for disclosure. We believe the federal banking agencies should revise their material standard and require disclosure in a CRA agreement or contract when it requires a bank to make a higher number of CRA-related loans, investments, and services in more than one of its markets. This increased activity is likely to have a material impact on a CRA rating or a decision on a merger application.

In addition, in order to make the sunshine regulation more reasonable, we suggest that it 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 does not include unilateral pledges as contracts requiring disclosure. In addition, the Senator 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 underserved communities.

Disclosure Requirements

Under the procedures of general operating grants, TCRC 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 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.

TCRC 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.

Reporting Requirements

TCRC 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 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 Conclusion

We believe our suggestions will reduce the burden and damage that may be caused in revitalizing our inner cities and rural communities. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation.

Sincerely,

Woody Widrow
Executive Director