Comerica Incorporated

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July 18, 2000

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

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

Communications Division
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219
Docket No. 00-11

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

Dear Ladies and Gentlemen:

The following comments are provided on behalf of Comerica Incorporated, a $40 billion bank holding company with banking subsidiaries located in the states of California, Michigan and Texas.

Comerica is committed to the communities in which it operates and as such is committed to fulfilling the letter and spirit of the Community Reinvestment Act (CRA). Comerica also understands and appreciates the spirit of proposed Regulation G. However, it is Comerica's opinion that this regulation far exceeds the intent of the CRA Sunshine Requirements (the "proposed rule") incorporated in the Gramm-Leach-Bliley Act (the "Act"). Additionally the proposed rule, in effect, creates parallel documentation and reporting requirements to the CRA, thus creating undue regulatory burden for insured depository institutions.

§ Sec. ___.2 Definition of a covered agreement

(a)(2)(ii) The parties to the agreement include a non-governmental entity or person

Comments: It is Comerica's belief that the intent of the Sunshine Requirements of the Act was to disclose and report agreements between insured depository institutions and *community based organizations* which were entered into based on the community based organizations' ability to protest an insured depository institution's CRA performance during the application process. While Comerica agrees that the review of CRA performance should be separate from the application process, the proposed rule goes far beyond the intent of the Act. As proposed in the rule, the following would be considered contacts/discussions and thus, trigger the disclosure and reporting requirements of the Act:

- the myriad non-profit organizations to which Comerica contributes and/or to which it provides services such as the provision of employees for board/committee involvement,
- the numerous companies and individuals which contact Comerica marketing products or services and touting their CRA benefit,
- the countless companies in which Comerica invests in low-income housing tax credit investments, mortgage-backed security investments, municipal bond investments and purchases mortgage loans, and
- the innumerable corporations with which Comerica works to provide retail services throughout its markets including leases for branches, ATMs, grocery store branches, etc.

Further, the very nature of these business transactions trigger the criteria that the agreement be in writing as most of these transactions require leases or contracts. In the case of contributions, most are required to be confirmed in writing for tax purposes and, in fact, many agencies require CRA-qualified contributions be confirmed in writing in order to be considered as a factor in CRA investment test performance. Requiring that all such business transactions be considered "CRA-related" agreements and be subject to the requirements of the proposed rule exceeds the intent of the Act and creates undue burden by requiring the disclosure and reporting of such transactions.

(a)(3)(i) Value

Comments: The calculations for determining the dollar thresholds for an eligible agreement should be reported based on the insured depository institution's fiscal year to facilitate reporting.

With regard to multiple year agreements, the dollar threshold should be determined based on the total commitment amount. The dollar threshold should not be calculated based on how much of the commitment was disbursed during a specific year of the commitment. Utilizing the example noted in the preamble, if an agreement provides that an insured depository institution will make $40,000 in grants over five years, the commitment amount of $40,000 should make this agreement eligible for reporting over the five years, no matter how the funds were dispersed each year of the commitment.

As noted previously, the proposed rule is far too broad and goes beyond the intent of the Act. This is evidenced by the agencies request for comment on how to determine the value of an agreement that does not specify the amount of payments, grants or other consideration such as an agreement for an insured depository institution to open a branch or to offer a new loan product. These situations should be considered by the agencies during the CRA examination process and evaluated based on the impact on the community. These situations in and of themselves should not constitute an agreement and the dollar value should not be required to be disclosed.

(b)(1)(i) Qualifying loans

Comments: The agencies request comment in the preamble regarding the how mortgage loans should be defined. The definition for the purposes of this rule should be the same definition as utilized by the CRA.

(b)(2)(ii) Examples of CRA contact

Comments: As noted previously, it is Comerica's belief that the intent of the Sunshine Requirements of the Act was to disclose and report agreements between insured depository institutions and *community based organizations* which were entered based on the community based organizations' ability to protest an insured depository institution's CRA performance during the application process. The definition of contact as proposed in the rule goes far beyond the intent of the Act by including the numerous entities with which insured depository institutions do business on a regular basis. In the case of Comerica, CRA has become an institutionalized behavior and function. Consequently, the risk/benefit to CRA is included in many of Comerica's discussions regarding its business strategies including the many companies with which Comerica works to provide retail services, to generate loans and through which to make investments. Many of these discussions constitute a "contact" under the proposed rule. It is the opinion of Comerica that the definition of contact should be narrowed to community based organizations.

Further, in response to the agencies request for comment in the preamble regarding the scope of the definition of contact, firms marketing products and services to insured depository institutions that may include a statement of CRA benefit should not be considered a contact in the final rule.

Additionally, in the preamble, the agencies request comment on whether the agencies should require that a CRA contact occur within a specified period before and after the parties entered into the agreement. To reduce the burden and confusion in complying with the regulation, contacts should be limited to only those made 30 days prior to the agreement.

(c)(2) List of factors

Comments: The list of factors to be considered an agreement should not be expanded beyond those factors that have been determined to have a material impact on the agencies' decision to approve or disapprove an application for a deposit facility or to assign a CRA rating.

§ ___.3 Related agreements considered a single agreement

(b) Substantively related contracts

Comments: As part of its commitment to the many communities in which it operates, Comerica has constituted and meets on a regular basis with several community advisory committees. Additionally, Comerica's chairman regularly meets with community, civic and government leaders. In addition to ensuring that Comerica has a clear understanding of the financial needs of its communities, many business opportunities result from these meetings. However, these business opportunities may develop over a period of time. To try to track and document these business opportunities with multiple partners and/or those which may have developed in a coordinated fashion would be a drain on resources and a reporting burden. The requirements of the proposed rule would seem to dis-incent insured depository institutions from reaching out into its communities as a matter of business practice.

§ ___.4 Disclosure of covered agreements

(a) Effective date

Comments: The requirement that the disclosure and reporting of covered documents have two different effective dates just adds to the burden and confusion in implementing the proposed rule. In particular, the fact that the proposed rule defines "agreement" very broadly and requires disclosure of historical agreements will require immeasurable backtracking to determine of all the business transactions which have occurred since November 12, 1999 and which would qualify as an agreement. Rather than backtracking it would be a far better use of limited resources to set an effective date subsequent to the effective date of the final rule.

Further, the effective date for the disclosure and reporting of covered documents should be the same date. These comments also apply to the agencies' request for comment in the preamble regarding how the parties to covered agreements entered into after these dates, but before issuance of the final rule should be required to comply with the requirements of the final rule. The parties should not be required to comply until a date after the rule has been finalized.

(b) Disclosure of covered agreements to the public

Comments: Again due to the broad definition of "agreement" as outlined in the proposed rule, virtually all business agreements as discussed in Comerica's comments regarding § ___.2 (a)(2)(ii) would be disclosable. This includes numerous leases and contracts which, while they may not be exempt from disclosure under the Freedom of Information Act, most certainly contain information which should not be disclosed to the public for competitive reasons. This further underscores the need to narrow the definition of "non-governmental entity or person" related to the definition of CRA-related agreements.

Regarding the agencies request for comment on how qualified CRA-related agreements should be made available to the public, this should be handled in the same manner as the CRA. CRA-related agreements should be kept in an insured depository institution's CRA public comment file. However, these agreements should only be required to be made available to the public for the term of the agreement. To maintain these agreements beyond such time, especially in light of the broad definition of agreement defined by the proposed rule, would create unnecessary burden.

(d) Relevant supervisory agency

Comments: More than one agency should not be the relevant supervisory agency with respect to a single covered agreement. This proposal creates undue burden for all parties including the insured depository institution, the person and the regulatory agencies. In the event a holding company enters into an agreement on behalf of its subsidiary, the relevant agency should be that which would be responsible for assigning a CRA rating for the subsidiary. In the case of applications, the subsidiary's most recent CRA performance rating assigned by the appropriate agency is always a consideration and the agreement could be included in this consideration.

§ ___.5 Annual Reports

(a) Effective date

Comments: As discussed previously in Comerica's comments to § ___.3 (a), to reduce the confusion and burden in implementing the proposed rule, the effective date for both disclosure and reporting should be the same date and should be subsequent to the effective date of the final rule.

(d) Annual reports filed by person

Comments: Again, it is Comerica's belief that the intent of the Sunshine Requirements of the Act was to disclose and report agreements between insured depository institutions and *community based organizations* which were entered based on the community based organizations' ability to protest an insured depository institution's CRA performance during the application process. However, the proposed rule goes far beyond the intent of the Act and includes numerous entities with which Comerica does business on a regular basis. To require these entities to comply with the disclosure and reporting requirements of this regulation may be considered a disincentive to do business with Comerica. This may be an additional incentive for these entities to seek out business opportunities with non-bank financial institutions which are not subject to such regulation.

(e)(2)(i) Consolidated reports permitted

Comments: An insured depository institution should be permitted to file a consolidated report if it is a party to two or more covered agreements. Additionally, Comerica concurs with the agencies' recommendation that an insured depository institution should not be required to file a report for any fiscal year in which it did not provide or receive fees or loans under the agreement.

(e)(1)(vi) Persons not party to the agreement

Comments: It is the opinion of Comerica that the requirement that the aggregate amount and number of loans, investments and services provided under the agreement to any individual or entity not a party to the agreement be disclosed by the depository institution exceeds the intent of the Act, which states that insured depository institutions disclose and report agreements with non-governmental entities. The Act does not include any references to third parties.

(f)(2) Alternate method of fulfilling annual reporting requirement for a person

Comments: The proposed rule states that a person may choose to submit the required information to the insured depository institution for reporting. However, Comerica seeks to ensure that insured depository institutions not be held accountable for insuring that "persons" submit the required information according to the timetable noted in the proposed rule. The agencies should insure that all parties to an agreement disclose and report as provided in the rule.

§ ___.7 Compliance provisions

(a)(3) Failure to comply with disclosure and reporting obligations

Comments: This provision should be deleted from the rule. In no uncertain circumstances should an insured depository institution be put in the position of policing the parties with which it enters agreements, as defined by the proposed rule. In the event that a person, as defined by the rule, fails to comply with the disclosure and reporting obligations as outlined in the proposed rule, the agreement should become unenforceable as noted in § ___.7 (a)(2).

In closing, Comerica applauds the agencies initial draft of the proposed Regulation G and appreciates the opportunity to comment on it. However, due to the multitude of essential elements of the proposed regulation that are open for comment, as well as the fact that the agencies have not fully determined the list of factors considered to be in "fulfillment" of CRA, we respectfully submit that the final regulation should be open for comment as well.

Sincerely,

Kathryn A. Reid

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