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Manager – Dissemination Branch
Information Management and Services Division
Office of Thrift Supervision
1700 G Street, NW
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To Whom It May Concern:

I am writing in response to your request for comments on the "Sunshine Provision" of the Gramm-Leach-Bliley Act (the Act).

For those of us working hard every day to revitalize lower-income communities, the "Sunshine Provision" may as well be called the "Dark Cloud Provision" for how its onerous reporting requirements will take away from the work we and our banking partners are doing. I sincerely believe that the "Sunshine Provision" was put into the Act for no other reason than to diminish the impact of the Community Reinvestment Act (CRA) and make our job more difficult. Given that framework I empathize with the difficult job you and the other regulators have in issuing regulations based on this legislation. I hope that my comments will result in regulations that stay true to the spirit of the legislation but do not deal a crushing blow to community development.

In the over 20 years since the passage of CRA, the relationship between banks and community-based organizations has changed from that of adversaries to that of partners. Banks have realized that the helping to revitalize communities is not just the right thing to do, but good business also. Neighborhood Housing Services of New York City (NHS) works daily with a number of financial institutions to increase homeownership for low and moderate-income New Yorkers and rebuild blighted neighborhoods. To make extensive reports for each of these transactions would further tax our limited resources and make it likely that banks will reduce their levels of participation because of the increase in costs and paperwork involved with each transaction.

The key point of the proposed rule you have issued as I see it is the definition of what constitutes a CRA contact that can be part of covered CRA agreement and subject "sunshine" disclosure requirements. The breadth of this definition will determine the extent that the "Sunshine Provision" affects community development. Under your proposed rule nearly any contact regarding a CRA-related transaction is covered. It makes no distinction between the comments made by an advocate to a regulator while a

bank is under review and comments between a Non-Governmental Entity (NGE) and a bank during the regular course of business regarding a bank's CRA performance. At NHS for example we provide a service to our banking partners by detailing their CRA activities, under your current rule we would have to issue disclosure reports for each of these transactions that are over the threshold limit.

It is my understanding that the "Sunshine Provision" was created by Senator Gramm to stop the agreements that he believes are "extorted" by NGEs from banks during merger applications. While I do not agree with his terminology or viewpoint, any regulation that applies to a broader range of transactions than this does nothing more than impede legitimate business transaction between banks and organizations doing community development work. In fact I would narrow the definition of a CRA agreement to have it cover just those that substantively weigh on a bank's CRA rating or application. As far as a CRA contact, anything broader than the Comment/Testify alternative detailed in the preamble to your proposed rule would hurt legitimate business activities. This alternative definition states that CRA contacts are only providing testimony before a federal banking agency about a financial institution's CRA rating or discussions with the institution about providing (or not providing) such testimony.

It is also crucial that the disclosure requirements be as simple and straightforwrad as possible. For an NGE or a bank with a number of covered agreements, extensive requirements would add immeasurably to the costs and burden of the "Sunshine" provision. A bank or NGE should be able to use their IRS forms (i.e. form 990) to meet disclosure requirements for general purpose funds, and a brief description for specific-use grants and loans should suffice.

There are some comments I would like to make regarding who must disclose transactions. First, I agree with you that NGEs should not have to submit reports in years that did not receive funds under a covered agreement. It is also unreasonable for non-negotiating parties to have to report funds received because of a covered agreement since in many cases they may not know they are receiving funds because of the agreements.

I am also informed that if a CRA agreement is developed by an advocacy organization, any NGE that is a member of the organization that receives funds would be subject to disclosure requirements. An example is the advocacy organization that through meetings gets an agreement by a bank to invest an extra $10 million in LMI communities without specifying who would get the money. Every NGE that is a member of that organization which received funding exceeding the threshold as a result of that agreement would be subject to "sunshine" disclosure requirements, even if they had nothing to do with the advocacy work. The result of this would be inhibiting legitimate advocacy work that is important to community development since an advocacy organization would have to take into account reporting requirements its members may face.

My thanks to you again for taking on this difficult task and providing the opportunity for public comment. The so-called "Sunshine Provision" will have a harmful impact on community development, it is my hope that our work together will make the impact minimal.

Please contact me at (212) 519-2500 if I can be of further assistance.

Sincerely,

Francine C. Justa
Executive Director