166

United States Senate
WASHINGTON, DC 20510

July 19, 2000

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

Dear Ms. Johnson,

The Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision published in the *Federal Register* on May 10, 2000 a proposed rule implementing section 711, CRA Sunshine Requirements, of the Gramm-Leach-Bliley Act ("GLB Act"). Section 711 of the GLB Act requires the public disclosure and annual reporting of certain written agreements between insured depository institutions or their affiliates and non-governmental entities and persons ("NGEP") made pursuant to, or in connection with, the fulfillment of the Community Reinvestment Act of 1977 ("CRA"). The proposed rule clarifies the written agreements covered by section 711 and describes the disclosure and annual reporting requirements under GLB.

As a member of the Senate Banking Committees who served on the Conference Committee on H.R. 10/S. 900 and co-authored the exemptive language contained in the Sunshine provisions, I welcome the opportunity to comment on the regulations and provide insight into the purpose of this provision.

While I appreciate the enormous challenge the interagency group has been charged with in drafting the CRA "sunshine" regulations, the draft proposal submitted by the group is considerably off the mark of the provision's original intent. Contacts intended to be considered "covered agreements" were those in which an NGEP discusses CRA with an insured depository institution ("IDI") as a means to obtain a desired outcome. An illustration is supplied in the second alternative for CRA contact outlined in the preamble of the draft proposal.

As you are aware, the impetus for the consideration of "outcome specific" contact language were statements made by the Senate Banking Committee Chairman reflecting his concern that the CRA statute could be used by a NGEP to "extort" an IDI by threatening to comment on the CRA performance of the IDI to a federal banking agency ("FBA"). The contact provision was meant to address the Chairman's concerns in a narrowly defined manner.

Unfortunately, the interagency draft proposal is too broad, capturing contacts between

organizations and insured institutions not related to the institution's CRA rating. In particular, a covered contact would include general discussions held between an NGEP and an IDI regarding loans, services, or other products that would be eligible for credit under CRA. It would also include discussions involving the broad context of either party expressing an interest in working on community development. For example, the proposed rule would consider as covered agreement a scenario in which an IDI agreed to provide community services through a NGEP solely because the NGEP, in initiating contact with the IDI, mentioned CRA performance.

These types of contacts were never intended to be considered covered agreements and, if included under the sunshine requirements, would have a chilling effect on CRA, undermining a statue that has been the lynchpin to successful community building efforts for the past twenty years.

I strongly encourage you to revisit this particular portion of the draft proposal to ensure that the rule reflects the provision's authored intent. Thank you for the opportunity to comment on this proposed regulations.

Sincerely,

Charles E. Schumer
U.S. Senate