



June 8, 2000

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

2000 JUN 19 A 11:45  
DISSEMINATION  
OFFICE OF THRIFT SUPERVISION

Dear Manager:

I am writing to you on behalf of the Board of Directors of the Texas Association of Community Development Corporations (TACDC). TACDC is a nonprofit statewide membership association of nonprofit, government, and for-profit entities engaged in producing affordable housing and community economic development in Texas.

TACDC believes that the sunshine provision of the Gramm-Leach-Bliley Act has the potential to create significant and real problems for community organizations, banks, and regulatory agencies. It has the potential to violate the First Amendment and to create a chilling political and regulatory environment. Lastly, it has the potential to dramatically decrease the level of community reinvestment in this county, resulting in much fewer small business and home loans being made to low- and moderate-income families and neighborhoods.

The provision violates the First Amendment. The statute requires parties to CRA agreements or written understandings to disclose these private contracts to Federal government agencies only when the non-governmental party testifies to a Federal agency or discusses CRA issues with a bank. Disclosure is also required if a bank and a community organization engage in discussions about the community organization refraining from making a comment on a pending merger application or CRA exam. Frankly, we cannot think of any other federal regulation that imposes a disclosure requirement of a private contract after a person has used his or her First Amendment rights. We believe that the statute exposes the regulatory agencies to lawsuits if they implement this part of the statute.

A pall will be cast over legitimate business relationships between banks, community organizations, and other private sector contractors. Evidence of any discussions concerning "CRA" will be based on hearsay and innuendo. Banks and community organizations will be afraid to talk to each other for fear that their private contracts will be subject to endless investigations and witch-hunts.

The sunshine provision's vague and broad wording threatens the right to redress grievances. Its broad nature can apply to thousands of organizations that do not think of themselves as CRA advocates but may use CRA-related speech in their conversations with banks. These include community development corporations, community development financial corporations, and even for-profit organizations such as loan brokers. As well as being vague and broad, the sunshine statute is one-sided. It only applies penalties to the non-bank party to the agreement.

Banks, community groups, and other third parties will hesitate to enter into contracts that involve making CRA-related loans and investments in low- and moderate-income communities. They will hesitate not only because they do not want to undergo the burden of making detailed disclosures to federal agencies about their private contracts, but also because their contracts will be accessible to powerful members of Congress and other government officials, who will be tempted to use the new public access to investigate phantom crimes.

Enactment of the CRA contact part of the sunshine regulations will severely curtail organizations' ability to extend credit to minority and low- and moderate-income communities. Because of the profound damage that the CRA contact portion of the sunshine statute will cause, TACDC asks 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.

Sincerely,

A handwritten signature in black ink that reads "J. Reymundo Ocañas". The signature is written in a cursive style with a large, stylized initial "J".

J. Reymundo Ocañas  
Executive Director

cc: Amancio Chapa, Chairman, TACDC Board of Directors  
Roy Priest, President and CEO, National Congress of Community Economic Development  
John Taylor, President and CEO, National Community Reinvestment Coalition  
Senator Phil Gramm, U.S. Senate