

July 11, 2000

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

RE: DOCKET NO. R-1069

Dear Ms. Johnson;

The purpose of this letter is to provide comment on the proposed regulations for the "sunshine" element of the Financial Modernization Act. It is our understanding that joint agency analysis and development of guidelines for the implementation of this element are underway.

The San Diego Reinvestment Task Force (RTF) is a quasi public agency of the City and County of San Diego. It is authorized by a number of joint City/County resolutions and authorizations to represent three entities on matters related to the Community Reinvestment Act. The RTF is chaired by a member of the City Council and a member of the County Board of Supervisors and has appointed members from five lenders and five community organizations as well as public appointees from other cities in the County (see attached membership). The RTF has functioned since the passage of the Community Reinvestment Act in 1977 and has a very productive record of accomplishment and partnership as a trilateral agency.

First, having worked diligently to make the Community Reinvestment Act a living, functional and beneficial law for the San Diego region since the law was passed. We must tell you that the very idea that you are considering guidelines for the "sunshine" item is an embarrassment. The assumptions made by Senator Gramm when he proposed this provision, are irresponsible and have created an unnecessarily obtrusive and meddlesome law which intrudes on the rights and responsibilities of non-profit organizations and lenders who have conscientiously worked to make the CRA a productive law on the nations books.

The RTF is authorized by the San Diego City Council and the County Board of Supervisors, legally chartered governmental bodies, to develop San Diego specific reinvestment agreements with lenders doing business in this region. Over the past ten years we have negotiated ten plans with lenders. The plans were developed between the banks and a fifteen member, non-profit organization, sub-committee of the RTF. The banks meet with the organizations, negotiate a plan, present it to the RTF for approval and then the RTF submits it to the City Council and the County Board of Supervisors for acceptance. We meet every year with the banks under agreement and review progress and make changes as needed. In 1998 these ten agreements generated over **\$1.3 billion** in community reinvestment in low and moderate income neighborhoods throughout the San Diego region. Nearly all those agreements were generated in the context of a formal letter of challenge to mergers in progress. The challenges were based on discernable deviations by the specific lenders from the standards set forth in the CRA.

The **\$1.3 billion** was loaned or granted for **1) home mortgages in low income communities, 2) affordable housing loans to non-profits, 3) small business loans in low income neighborhoods, 4) corporate grants to non-profits doing housing and/or economic development for low income persons, 5) investments made in non-profits doing housing or providing micro loans to business starting up, 6) community development loans (i.e. commercial construction in federally designated Enterprise Zones).**

I would estimate, conservatively, that the \$1.3 billion in "community reinvestment" loans represents more than 60 thousand separate transactions. Washington Mutual alone, led the pack with over 15,000 separate transactions. We negotiate for increased home mortgage lending in poor neighborhoods and to minority borrowers. We are proud that in San Diego the rates at which minority borrowers are rejected by banks has declined every year for the past five years. It's against the law to discriminate based on race. So, according to "sunshine" everyone of those loans would need to be reported by either the bank, the coalition or by individual homeowners or borrowers. Does that make sense to you?

Banks made more than \$393 million in small business loans in poor neighborhoods, under agreement, in San Diego. We aggressively encouraged banks to make those products available. I would roughly estimate the lenders made over 50,000 separate loans in this category. Must they report them all under "sunshine"?

We recently completed a \$125,000 study which interviewed 1,600 small businesses throughout the region on their ability to access credit. Their opinions are on the record as a part of that study. That study was used as the basis for the RTF to negotiate new small business credit products from banks. It will be used to make challenges on bank mergers. According to "sunshine" the small businesses surveyed must all report if they now get a loan from one of our ten banks under agreement. That is not an enforceable obligation, especially since you have no enforcement authority in the new law. What will you do, deny a bank franchise if they fail to report one of these loans? Fail them for CRA? Or will you require that the small business give their loan back?

So, the parameters of what you are trying to regulate are amorphous and very, very large. To the point of being ludicrous and certainly onerous. Mr. Gramm's witch hunt, when tested against reality, is farcical, were it not now the law of the land.

Our recommendation is that you validate the fact that all non-profits file the 990 forms for federal income tax purposes. The easiest way for you to do your new job is to randomly sample that data.

The reason this provision is so ludicrous when applied to reality is that it is based on a false assumption; the assumption that non-profits use the CRA to "extort" banks. One false premise leads to compounded errors when applied to other circumstances (see Kant's Categorical Imperative). How are you going to fix this error administratively?

You should NOT require any new reporting of data under the sunshine because you cannot possibly draw reasonable lines for calculating what data you should collect and what data you should ignore. To give you another example about possible confusing requirements; you as regulators define for lenders, under the CRA, which loans qualify and which loans do not qualify for CRA credit. You have requirements which you impose on lenders. Are those obligations considered agreements under sunshine? Why not?

We appreciate the opportunity to comment on your deliberations. I have heard it said that government agencies would be exempt from reporting requirements under current sunshine interpretations. So, possibly we would be exempt. However, we are quasi-public. Could you please advise whether the new regs apply to quasi-public agencies and committees or task forces?

Sincerely,

Jim Bliesner
Director

CC: Communications Division, Office of the Comptroller of the Currency
Robert E Feldman, Executive Secretary, Federal Deposit Insurance Corporation
Manage, Information Management & Services Division, Office of Thrift Supervision