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Dissemination Branch Information Management & Services Division
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Attention: Docket No. 2000-44

To Whom It May Concern:

As an executive director of ROSE Community Development, a nonprofit organization serving southeast Portland, Oregon, I urge you to make significant changes in the proposed "sunshine" regulations. While we appreciate the steps the regulatory agencies have taken to reduce the burdens of this statute for neighborhood organizations, banks, and other parities interested in community development, we believe that this provision has real problems for community organization such as ours.

My organization has spent years developing strong partnerships with banks. We would not have been able to develop these partnerships without a strong Community Reinvestment Act (CRA). ROSE's partnerships with banks have resulted in more than $10 million worth of new investment in outer southeast Portland, a distressed community that has seen little significant new development in more than 40 years. ROSE projects include a new apartment complex and meal center for senior citizens, several homes sold to first-time homebuyers and support for family child care providers.

I believe, however, that the sunshine statute strikes at the heart of CRA. The essence of the Act is to encourage members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. CRA stimulates collaboration for the purpose of revitalizing inner city and rural communities.

The sunshine statute, by making CRA-related speech and agreements subject to excessive disclosure requirements, threatens to reverse more than twenty years of bank-community partnerships and progress.

I can tell you that my organization frequently engages in "CRA contacts." We often discuss how banks make more loans to homeowners and business-owners in our community. In fact, the banks are often proud of their agreements and work in our community.

However, as a private sector organization, I find it troublesome that I have to disclose a contract I have with a bank and provide detail on how I spent grant or loan dollars under the contract. This will require my organization to generate a new budget and report a new contract for each bank we work with. While this is an administrative burden on my already overworked staff, I am more troubled by the effect it will have on our banking partners.

Many banks will simply do less CRA-related business since they will not want to deal with the disclosure requirements. In my experience, banks tend to be competitive in their pricing and products. The agreements I am able to negotiate are based on a long relationship of mutual respect. Banks will not be likely to want anyone to request similar terms without having similar relationships or deals. In addition, the rule requires that I report everything through the bank that already feels burdened by paperwork.

The result will be fewer loans and investments reaching my community. My job of revitalizing communities will become much harder.

CRA Contacts

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, we ask 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 regarding its constitutionality. In addition, the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts. My organization asks the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

Material Impact

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. We recommend that a CRA agreement or contract should not be required to be disclosed unless it requires a bank to make a greater number of loans, investments, and services in more than one of its markets. The federal banking agencies have proposed that agreements are subject to disclosure if they specify any level of CRA-related loans, investments, and services. But only a higher number of loans and investments in more than one market is likely to have a material impact on a CRA rating or a decision on a merger application.

The agency interpretation of material impact will result in an unwieldy regulation. Simply put, hundreds, if not thousands of contracts with community development corporations and other organizations may have to be disclosed. My organization recently received bank support of more than $50,000 for a loan or a grant of more than $10,000. My reading of this rule states that I must send the bank and all four federal agencies budgets and letters, contracts, or written comments about these types of support. My organization did not receive our grant or loan as a result of an agreement made when a bank was merging or before a bank's CRA exam. We received the grant or loan because the bank wants to do business in my neighborhood.

Senator Phil Gramm (R-TX), in a lengthy interview in the American Banker on June 9 suggests that disclosure requirements should apply to pledges that banks make unilaterally and that are not signed by non-governmental third parties. The Gramm-Leach-Bliley Act simply does not include unilateral pledges as contracts requiring disclosure. To make matters, worse, the Senator suggests, "any meeting between a community group and a bank about CRA investments should trigger disclosure requirements." An indefinite time period as the Senator suggests will result in enormous

burdens by all parties in remembering and tracking any meetings or negotiations concerning loans, investments, and grants in traditionally underserved communities.

Means of Disclosure

Under the procedures of general operating grants, my organization asks the Federal agencies to specify in the final regulation that the use of IRS Form 990 is an acceptable means of disclosure. In their preamble to the draft regulation, the federal agencies state that the 990 form provides more than enough detail for satisfying disclosure requirements. Codifying the use of 990 forms would simplify reporting requirements and reduce burdens for nonprofit organizations that are very familiar with the 990.

The public record from the Congressional deliberations over the Gramm-Leach-Bliley Act support the use of the IRS 990 form. The Manager's report accompanying the legislation states that a Federal income tax return is an acceptable means of disclosure. In addition, Representatives Jim Leach (R-IA) and John LaFalce (D-NY) engaged in a colloquy on the eve of the House vote on Gramm-Leach-Bliley in which they emphasized the use of Federal income tax returns as satisfying the disclosure requirements.

My organization also supports the proposed reporting procedures for specific grants. If a nonprofit organization received grants or loans for a specific purpose such as purchasing computers or providing financial literacy counseling, the nonprofit organization should be able to comply with the disclosure requirement by describing the specific activity in a few sentences.

Who Must Report

My organization agrees with the Federal agencies that non-governmental parties should not be required to submit annual reports during the years in which they did not receive grants or loans under the agreement. While other organizations may have received grants and loans under the agreement, it would be logistically impractical for the negotiating party to report on how the grants and loans were used by the other parties. In many cases, large banks may be making relatively small grants to hundreds of community groups over a multi-state area. It is also unreasonable for the non-negotiating parties to be required to report since they may not even be aware that they received grants or loans because of a CRA agreement.

Conclusion

While it may be impossible for the so-called "sunshine provision" to be a non-meddlesome regulation, we believe that our suggestions reduce burden and the damage it causes to community organizations that revitalize inner city and rural communities. We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation.

We must also add that we will be working with national associations such as the National Congress for Community Economic Development and the National Community Reinvestment Coalition, community organizations, local public agencies, banks, and other concerned parties to repeal this counter-productive statute so that the private sector

will not be burdened with disclosure requirements simply because they want to do business in and help revitalize traditionally underserved neighborhoods.

Sincerely,

Nick Sauvie
Executive Director