COALITION on **HOMELESSNESS**
and **HOUSING** in Ohio

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DISSEMINATION BRANCH

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June 12th, 2000

Manager
Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552

Attention: Docket No. 2000-44

To Whom it May Concern:

On behalf of the Coalition on Homelessness and Housing in Ohio (COHHIO), I urge you to make significant changes in the proposed "sunshine" regulations. I appreciate that the federal banking agencies had a difficult task of developing regulations for a confusing and mean-spirited statute. And in fact, the regulatory agencies have taken steps to reduce burden for neighborhood organizations, banks, and other parities interested in community development.

I do believe, however, that the sunshine statute strikes at the very heart of the Community Reinvestment Act (CRA). The essence of the Community Reinvestment Act is encouraging members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. The Community Reinvestment Act stimulates collaboration for the purpose of revitalizing both inner city and rural communities. The sunshine statute, by making CRA-related speech suspect, threatens to reverse more than twenty years of bank-community partnerships and progress.

The sunshine statute requires banks, community organizations, and a large number of other parties to disclose private contracts to federal agencies if the parties engage in so-called CRA "contacts" or even discussions about how to help the bank make more loans and investments in low- and moderate-income communities. As a private not-for-profit organization, I find it troublesome that we now have to disclose the terms of a contract we have with a bank, as well as provide a detail reporting on how we spent grant or loan dollars under the contract. As a result of these new requirements, many organizations similar to ours will simply do less CRA-related business. The burden of these new requirements will prove too great. The result will be fewer loans and investments reaching Ohio's communities, which will make our work much harder.

Because of the profound damage that the CRA contact portion of the sunshine provision will cause, COHHIO 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 regarding its constitutionality. In addition, the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from disclosure based on CRA contacts. We ask that you encourage the Federal Reserve Board to exercise this authority and eliminate all CRA contacts as a trigger for disclosure.

Instead of using CRA contacts as a trigger for disclosure, we believe that the federal banking agencies should revise their material impact standard. COHHIO believes 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.

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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. If the material impact standard is not changed, the agencies will be deluged with thousands of letters, written understandings, or contracts about these types of loans and grants made to nonprofit organizations and for-profit companies working in low- and moderate-income communities.

COHHIO has yet to receive a grant or loan as a result of an agreement made when a bank was merging or before a bank's CRA exam. On the contrary. We received the grant or loan because the bank wanted to do more business within the State of Ohio. To make the sunshine regulation more reasonable, we suggest that it should focus on agreements made during the public comment period on a merger application or during the time period when a CRA exam is announced
and when the exam occurs.

Senator Phil Gramm (R-TX), in a lengthy interview in the American Banker on June 9 suggested that disclosure requirements should apply to pledges that are made unilaterally by banks 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 that "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.

Under the procedures of general operating grants, COHHIO 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 Form 990 provides more than enough detail for satisfying disclosure requirements. Codifying the use of Form 990 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 Form 990. 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.

COHHIO 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.

COHHIO 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.

While it may be impossible for the so-called sunshine provision to be a non-meddlesome regulation, we believe that these suggestions would not only reduce the burden placed upon community-based organizations, but they would also limit the damage caused to both inner city and rural communities. We urge the federal banking agencies to adopt these suggestions for streamlining the sunshine regulation. We must also add that we will be working with other 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.

Respectfully,

Rick Taylor
Housing Policy Director