

From: Hurwitz, Evelyn S on behalf of Public Info
Sent: Friday, July 21, 2000 3:34 PM
To: Gottlieb, Mary H
Subject: FW: Proposed "CRA Sunshine" Regulations

-----Original Message-----

From: Makeda Harris [mailto:MHarris@McAuley.org]
Sent: Friday, July 21, 2000 3:08 PM
To: 'regs.comments@federalreserve.gov'; 'regs.comments@occ.treas.gov'; 'public.info@ots.treas.gov'
Subject: Proposed "CRA Sunshine" Regulations

Ms. Jennifer J. Johnson
Board of Governors of the Federal Reserve System
regs.comments@federalreserve.gov
RE: Docket No. R-1069

Communications Division
Office of the Comptroller of the Currency
regs.comments@occ.treas.gov
Attention: Docket No. 00-11

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
fax: (202) 898-3838
Attention: Comments/OES

Manager
Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
public.info@ots.treas.gov
Attention: Docket No. 2000-44

Re: Comments on the Proposed "CRA Sunshine" Regulations
By e-mail and fax

Dear Madam or Sir:

As executive director of McAuley Institute, a faith-based national housing intermediary, I appreciate the opportunity to comment on the proposed regulation and the efforts the agencies have made to avoid over-burdening private and nonprofit partners in community reinvestment. However, we believe the rule should be simplified further to minimize the burdens of disclosure and preserve the effectiveness of the Community Reinvestment Act in ensuring banking services in low-income and minority communities.

We particularly want to draw your attention to the burdens the rule would place on the free exercise of religion, in addition to free speech and privacy.

McAuley Institute was founded in 1983 by the Sisters of Mercy to provide loans and technical assistance to community-based groups which provide affordable housing to low-income residents. We also advocate for public policy addressing these needs. We have worked with 2,000 groups in 49 states. Approximately one-third of the organizations we have assisted are faith-based.

We would like to associate ourselves with comments you have received from the National Community Reinvestment Coalition and the National Neighborhood Coalition, both of which McAuley is a member, and the Center for Community Change. These and other organizations have noted the chilling effect the Gramm-Leach-Bliley Financial Services Modernization Act, and the proposed regulation, will have on First Amendment rights and community reinvestment. We believe there is an additional impact on the freedom of religion.

Many religious organizations - churches, religious communities, faith-based service providers, and others of all denominations - believe it is their moral duty to do business with firms that share their social consciousness and mission to serve the poor. As a result, many of them have regular discussions with the banks they have relationships with and other financial institutions in their communities about their performance under the Community Reinvestment Act. Several years ago, McAuley, in fact, began a project called BankRight to educate religious organizations about how they can examine CRA and HMDA data to inform such discussions with financial institutions. And, in this year's observation of Jubilee 2000, Roman Catholic and other denominations are drawing special attention to the impact of debt and credit on the world's poor.

Because of religious organizations' unique claim to tax exempt status, many of them are not required to file the IRS Form 990. McAuley Institute, for example, receives exemption from federal taxes as part of a group ruling that has, since 1946, exempted an entire group of Catholic-sponsored organizations, as listed each year in the *Official Catholic Directory*. Although McAuley does file Form 990, many of the thousands of churches and organizations in that directory do not. In addition, many of these organizations do not publish an annual report. Thus, any new reporting requirement related to "CRA contacts" will place a new, and significant, burden on certain religious organizations. Some smaller and poorer religious congregations simply do not have access to the legal and accounting services that would be required to comply. More than a chilling effect, a reporting requirement would effectively silence them on CRA issues if they receive gifts or contributions from financial institutions.

McAuley's BankRight: Guide to Socially Responsible Banking specifically instructs religious organizations about their ability and responsibility to speak with their bankers in ways that the proposed rule, in its examples, defines as not exempt from disclosure. These include examining and contributing to an institution's public CRA file and communicating with the institution about its CRA rating and its service of community banking needs.

We believe that many religious organizations do advocacy of this nature. And we know of churches and faith-based organizations which have subsequently received commitments from the same financial institutions to invest in the organization's own charitable project or increase investment generally in low-income and minority communities. Grants can range from a \$10,000 contribution to a day care center to a large investment in a housing project. In some cases, officers of the bank may be members of a congregation that receives the contribution, in which case the new regulation would be an additional burden on his or her own freedom of religious expression.

Accordingly, McAuley Institute suggests 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 regard to the First Amendment. In addition, the Federal Reserve Board has the discretionary authority to exempt agreements or contracts from

disclosure based on CRA contacts. We would ask the Federal Reserve to eliminate all CRA contacts as a trigger for disclosure.

In regard to the means of disclosure, McAuley believes the IRS Form 990 is an acceptable means of disclosure and will reduce the reporting burden for most non-religious nonprofits. This should be codified. In the case of religious organizations, however, McAuley believes they should not be required to submit a Form 990 if they have not been required by the IRS to file one in the past. In fact, we believe religious organizations should not be required to produce any new report for CRA purposes.

In formulating the final rule, I hope the banking regulatory agencies will, at a minimum, include examples involving religious organizations that exempt or limit their reporting requirements under the new law. McAuley Institute would be happy to work with you to develop any language toward this end.

Thank you again for your consideration. We know you will take care not to diminish the effectiveness and simplicity of the CRA or the right of free speech and religion guaranteed by the First Amendment.

Sincerely,
Josephine Ann Kane
Executive Director