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From: Hurwitz, Evelyn S on behalf of Public Info
Sent: Friday, July 21, 2000 2:11 PM
To: Gottlieb, Mary H
Subject: FW: CRA Sunshine Regulations

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From: TRIP, Inc. [mailto:tripinc@ix.netcom.com]
Sent: Friday, July 21, 2000 12:57 PM
To: public.info@ots.treas.gov
Subject: CRA Sunshine Regulations

Please forward this to appropriate dept. Thanks!

July 19, 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:

As an executive director of the Troy Rehabilitation and Improvement Program (TRIP), Inc., I urge you to make significant changes in the proposed "sunshine" regulations. I appreciate the difficulty faced in developing regulations for a confusing and far-reaching statute, but I feel that the regulation as drafted puts an unfair burden on community organizations like ours that are reliant on working cooperatively with financial institutions.

The essence of the Community Reinvestment Act (CRA) is to encourage members of the general public to articulate credit needs and engage in dialogue with banks and federal banking agencies. CRA stimulates collaborations between organizations like TRIP and local banks for the purpose of revitalizing 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 development 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 discussions about how to help the bank make more loans and investments in low- and moderate-income communities. As a private sector organization, I find it troublesome that I have to disclose a contract I have with a bank and provide details on how I spend grant or loan dollars under the contract. Many private sector organizations will simply do less CRA-related business since they will not want to deal with the disclosure requirements. The result will be fewer loans and investments reaching the communities I work in. My job of revitalizing communities will therefore become much harder.

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 and we strongly urge the Federal Reserve to 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. We believe 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. 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.

TRIP does not receive bank funding as a result of an agreement made when a bank was merging or before a bank's CRA exam. We receive financing because the bank wants to do business in our community and wants to partner with us as a community based organization. To make the sunshine regulation more reasonable and to stay within the spirit of CRA, 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.

Under the procedures of general operating grants, we ask the Federal agencies to specify in the final regulation that the use of IRS Form 990 is an acceptable means of disclosure. The preamble to the draft regulation 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.

We also support 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.

We agree with the draft regulation 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 our suggestions reduce the burden and the potential damage that this provision of law will have on our

organization and others like us . We urge the federal banking agencies to adopt our suggestions for streamlining the sunshine regulation.

Sincerely,

Wm. Patrick Madden

Executive Director
Troy Rehabilitation and Improvement Program, Inc.

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