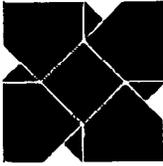


THE COMMUNITY PRESERVATION CORPORATION

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July 24, 2000

OVERNIGHT COURIER

Manager, Dissemination Branch
Information Management & Services Division
Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552

Attention: Docket No. 2000-44

Re: Proposed CRA "Sunshine" Regulations

Ladies and Gentlemen:

As an established community lending intermediary that has been financing affordable housing for more than 25 years, The Community Preservation Corporation (CPC) is pleased to submit comments on the proposed regulations to implement the CRA "sunshine" provisions in last year's Gramm-Leach-Bliley Act (GLBA). The Appendix to this letter explains CPC's agreements with its various supporting depository institutions, and how those agreements relate to the proposed regulations.

CPC commends the regulatory agencies for their efforts to draft regulations for statutory language that is at times vague and over broad. Specifically, CPC strongly supports the agencies' recognition that reports already prepared by non-governmental entities (such as tax returns and audited financial statements) may be used to supply the information called for in the GLBA sunshine provisions and thus avoid significant duplication of burdens on those entities.

Nevertheless, we believe the regulations need to be improved, and we offer the following comments:

1. Exemptions from Coverage. The regulations should use the authority granted in the GLBA to "provide further exemptions . . . consistent with the purposes of this section" to exempt certain classes of non-governmental entities from the sunshine rules altogether. For example, an entity *created by banks* and on whose governing board *banks have a substantial presence* should

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be presumed to be acting in furtherance of the banks' own purposes and therefore be exempt from sunshine coverage, regardless of the nature of its particular agreements. If there is any ambiguity about the role of a specific entity, the banks themselves could be called upon to confirm its entitlement to an exemption.

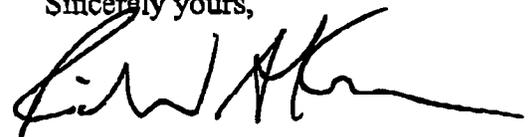
2. Definition of CRA Contact. The definition of "CRA contact" in the proposed regulations will likely lead to artificial meetings between banks and their chosen intermediaries, in which a bank's legitimate desire to meet its CRA requirements is the understood subtext but is never spoken of aloud. Instead, "CRA contact" should simply exclude all meetings with bank-solicited intermediaries as well as any other bank-initiated contacts that serve a legitimate business purpose but also happen to provide CRA credit for the bank.

3. Loan Participations. The purchase by a bank of a participation in an individual mortgage loan should be exempt from coverage in the same manner as the making of the loan itself would be under the GLBA, since most of the same underwriting decisions have to be made when purchasing a participation as when making a loan. Banks will often consider the CRA "eligibility" of a participation when making their investment decision, but it would be a significant and pointless burden to have to then disclose and provide copies of every participation agreement in which CRA was a consideration.

4. Reporting Efficiencies. If banks' legitimate lending intermediaries are not exempted from coverage by the regulations, there should at least be a more efficient mechanism for reporting their various agreements. It would seem to make little sense, for example, to require dozens of separate banks to each send to its regulator a copy of a particular credit agreement with an intermediary lender. Instead, the intermediary should simply send a copy to each federal regulator along with a list of the depository institutions that are party to it.

Thank you for your consideration of this matter.

Sincerely yours,



Richard A. Kumro
Vice President and
General Counsel

RAK/tb

Encl.

Appendix**THE COMMUNITY PRESERVATION CORPORATION****Comments on Proposed Regulatory Implementation of
Section 711 of the Gramm-Leach-Bliley Act of 1999
(a/k/a the CRA "Sunshine" Provisions)**

The Community Preservation Corporation ("CPC") is a nonprofit community mortgage lender founded by the major New York commercial and savings banks in 1974. In its 25-year history, CPC has financed the construction or upgrading of over 67,000 affordable housing units, representing a combined public and private investment of more than \$2.1 billion. CPC is today sponsored by about 90 banks and insurance companies that provide financing at market-based rates to support CPC's community lending activities.

CPC Agreements with Insured Depository Institutions

CPC was founded several years *prior to* the passage of the Community Reinvestment Act, as a means for banks to direct mortgage capital into neighborhoods underserved by the conventional capital markets. The principal credit agreements by which regulated banks support CPC's activities have been in place since 1974-75, and are largely unchanged since then despite renewals roughly every five years. These agreements include:

- A \$205 million revolving line of credit, currently priced at Libor plus 185 basis points, which CPC uses to finance its construction loans and warehoused permanent loans prior to sale in the secondary markets.
- A \$230 million commitment to purchase CPC-issued collateralized trust notes (mortgage backed securities, essentially) that are secured by CPC permanent loans.

CPC also regularly sells loan participations and whole loans to its member banks, and has several other special credit or mortgage purchase arrangements with the banks to support particular CPC lending programs. CPC does not receive grants or gifts from its member banks, other than a modest one-time capital contribution that is required from newly joining banks to reflect the fact that CPC's founding banks invested substantial start-up capital in the 1970's before CPC became self-supporting through its operating revenue.

Relation to Gramm-Leach-Bliley Sunshine Provisions

The sunshine provisions in Section 711 of the Gramm-Leach-Bliley Act cover agreements between an insured depository institution and a nongovernmental entity made "pursuant to or in connection with" CRA. CPC's main credit agreements pre-date CRA but have been -- and, we anticipate, will continue to be -- renewed about every five years, with the next renewals scheduled to come up in 2003. Loan participations, whole loan sales and other special arrangements, which

are also done pursuant to binding legal agreements, occur on a regular basis with individual banks.

Although none of these agreements are tied to or refer to CRA in any way, and often include financial institutions that are not even covered by CRA, it is CPC's assumption that regulated banks are able to obtain CRA "credit" for their support of CPC's activities. In addition, CPC (i) reports quarterly to our member banks on the census tract locations of loans we have made, in order to facilitate the banks' CRA/HMDA reporting; (ii) has met with and submitted written comments to regulatory agencies on proposed CRA regulations and Q&A; and (iii) has requested an advance regulatory ruling on CRA eligibility for at least one large CPC-financed project. Under the broad language of the current proposed sunshine regulations, the foregoing might be enough to create a "CRA contact."

Justification for Exempting CPC and Similar Organizations from Sunshine Provisions

The Gramm-Leach-Bliley Act anticipates that the federal banking agencies, in promulgating regulations for the Act, may provide exemptions from the sunshine provisions. CPC is exactly the sort of bank-created financial entity that merits such an exemption, for the following reasons:

- CPC was created by banks. CPC was formed as a not-for-profit corporation in 1974 (three years before CRA became law) by New York City's major commercial and savings banks after a New York Clearing House Association study determined that a separate, self-sustaining community mortgage lender financed by the banks was the most efficient mechanism for injecting bank capital into underserved neighborhoods of New York City.
- CPC's board consists of representatives of its member financial institutions. With the exception of CPC's President & CEO, each member of the CPC Board of Directors is a representative of a member bank or insurance company. The committees whose approval must be obtained before CPC may make a mortgage loan are likewise comprised of bank and insurance company representatives.
- CPC has been fully self-supporting since 1980, covering its annual operating budget by charging fees to the users of its services: the affordable housing developers that borrow money from CPC. CPC receives no government operating subsidies, does not raise funds from the general public, and receives only a small one-time capital contribution from new banks that wish to join its lending programs.
- CPC borrows funds from and sells mortgages and participations to its member financial institutions on market-based terms, pursuant to extensively negotiated credit agreements drafted by legal counsel.
- CPC is a recognized financial institution (non-depository) in its own right. CPC is a qualified seller/servicer for Freddie Mac and Fannie Mae, a qualified Community Development Financial Institution and CDFI grant recipient, a HUD Title II mortgagee (reinstatement pending), a Participating Administrative Entity in HUD's Portfolio Reengineering Demonstration Program, and the leading private financing partner in the City of New York's Participation Loan Program.

CPC is also party to mortgage sale agreements totaling more than \$600 million with one private and several public pension funds.

- CPC's involvement with CRA is directed by its member banks. The banks and CPC management believe that CPC, as one of the largest non-bank community lenders in America, has insight into the business of affordable housing and community development finance, and is therefore well positioned to comment on CRA and certain other public policy matters.

It is respectfully suggested that certain of the foregoing criteria be used by the regulatory agencies to create a class of non-governmental entities that are exempt from the CRA sunshine requirements.

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