

CRA Sunshine – Disclosure and Reporting of CRA-Related Agreements¹

Introduction

Section 711 of the Gramm-Leach-Bliley Act (GLBA) added a new section 48 to the Federal Deposit Insurance Act (FDI Act) entitled “CRA Sunshine Requirements.” This section requires nongovernmental entities or persons (NGEPs), insured depository institutions (IDIs), and affiliates of insured depository institutions that are parties to certain agreements that are in fulfillment of the Community Reinvestment Act (CRA) to make the agreements available to the public and the appropriate agency and to file annual reports concerning the agreements with the appropriate agency. The interagency regulations implementing GLBA’s CRA Sunshine Requirements were published January 10, 2001. The GLBA CRA Sunshine Requirements and the implementing CRA Sunshine Regulations do not affect the Community Reinvestment Act of 1977, its implementing regulations, or the agencies’ interpretations or administration of that act or regulation.

The CRA Sunshine Regulations identify the types of written agreements that are covered by the statute (referred to as covered agreements), define many of the terms used in the statute, describe how the parties to a covered agreement must make the agreement available to the public and the appropriate agencies, and explain the type of information that must be included in the annual report filed by a party to a covered agreement. However, neither GLBA nor the CRA Sunshine Regulations give the agencies any authority to enforce the provisions of any covered agreement.

The CRA Sunshine Regulations, entitled “Disclosure and Reporting of CRA-Related Agreements,” became effective April 1, 2001. As described in the Regulations and outlined in the *Summary of the Disclosure and Reporting Requirements of the Regulation*, the disclosure requirements apply to covered agreements entered into after November 12, 1999, and the annual reporting requirements apply to covered agreements entered into on or after May 12, 2000.

Definitions

In addition to the definitions described below, §346.11 of the CRA Sunshine Regulations provide other definitions, including ones for “affiliate” and “term of agreement.”

“**Covered Agreement**” is any contract, arrangement, or understanding that meets all of the following criteria:

1. The agreement is in writing.
2. The parties to the agreement include:
 - a. One or more insured depository institutions or affiliates of an insured depository institution; and
 - b. One or more NGEPs.
3. The agreement provides for the insured depository institution or any affiliate to:
 - a. Provide to one or more individuals or entities (whether or not parties to the agreement) cash payments, grants, or other consideration (except loans) that have an aggregate value of more than \$10,000 in any calendar year; or
 - b. Make to one or more individuals or entities (whether or not parties to the agreement) loans that have an aggregate principal amount of more than \$50,000 in any calendar year.
4. The agreement is made pursuant to, or in connection with, the fulfillment of the CRA.
5. The agreement is with a NGEP that has had a CRA communication prior to entering into the agreement.

A “**Covered Agreement**” does *not* include:

1. Any individual loan that is secured by real estate; or
2. Any specific contract or commitment for a loan or extension of credit to an individual, business, farm, or other entity, or group of such individuals or entities if:
 - a. The funds are loaned at rates that are not substantially below market rates; and
 - b. The loan application or other loan documentation does not indicate that the borrower intends or is authorized to use the borrowed funds to make a loan or extension of credit to one or more third parties.

A “**CRA affiliate**” of an insured depository institution is any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate Federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEP that is a party to the agreement of such designation.

A “**CRA communication**” is any of the following that meet the timing and knowledge requirements of §346.3(b).

1. Any written or oral comment or testimony provided to a Federal banking agency concerning the adequacy of the performance under the CRA of the insured depository

¹ This section fully incorporates the examination procedures issued under DCA RD Memo 02-002: Interagency Examination Procedures for Disclosure and Reporting of Community Reinvestment Act Related Agreements.