Remarks
By
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I cannot think of a better forum than this, the interagency 2000 Community Reinvestment Conference, to discuss an important section of the Gramm-Leach-Bliley Act - one that affects community development partnerships. I refer to the CRA Sunshine Requirements.

The law requires public disclosure and reporting of agreements in connection with CRA between financial institutions, community groups and others.

I don't have to tell you that many people - and especially the sponsors of the legislation - have strong views on these provisions.

Over the next few weeks, the Federal banking agencies will complete work on a proposed regulation that would implement these requirements. We will then publish the proposal to request public comment - your very welcome advice - as well as guidance from Chairmen Gramm and Leach, and Ranking Members Sarbanes and LaFalce, to ensure that the intent of Congress is fulfilled.

We must implement these important provisions of law completely and constructively in a way that does not impose unnecessary burden and, as required by the statute, in a way that cannot be construed to repeal any provision of the CRA. We want your help.

I will focus the issues in two ways:

First, I will discuss the FDIC perspective on Gramm-Leach-Bliley and how the provisions of that law could affect productive and profitable community development initiatives pursued by insured depository institutions. Conceptually, we must maintain a careful balance. We must achieve the goals set out by proponents of the CRA provisions in Gramm-Leach-Bliley. At the same time, we must not compromise what is in the best interest of the consumer or the goals of legitimate community and economic development enterprise. I will focus on why achieving both goals is important, and how you can help.

Second, I will turn to the technical aspects of the CRA Sunshine Requirements of the law and discuss:

- what types of agreements are covered;
- what information is made public, when, and how; and
- what information is reported to the banking agencies and by whom.
- I will also outline a few key issues relating to these provisions on which your thoughts and comments would be particularly helpful.

Let me begin by making several observations about the positive overall impact of the legislation, and the possible effect of public disclosure.

There are, indeed, many positive aspects of the Act to consider. Expanded powers should enhance the competitive position of insured depository institutions, which have accounted for a shrinking share of financial system resources for decades. This should mean expanded resources for those institutions and more options about how to utilize those resources for the good of their shareholders, depositors, and communities.

Under the law, bank affiliates must have a "Satisfactory" CRA rating in order for a holding company, or insured depository institution, to engage in expanded financial activities. This is a powerful incentive to meet community credit needs, including community development needs. It also encourages new non-bank affiliates to assist the insured depository institution in maintaining good performance.

While some believe that the sunshine provisions in the law could dampen these benefits, we must recognize that others believe that public disclosure may help to prevent any real or perceived abuses. "Sunshine can promote accountability in an important area of banking operations. Indeed, many banks and many of their community development partners already make public their agreements and report periodically on their progress under the agreements. Often, targets are met or exceeded earlier than expected. Making that information public should not hurt community and economic development.

Neither banks nor community-based organizations should fall to the risk of threats or pressure tactics made behind closed doors. Partnerships, based on trust and open communication, improve communities and strengthen the banking system. This must continue to happen. Partnerships formed under duress from either party, in secret, can undermine neighborhoods and sabotage community and economic development. We must not let this happen.

The FDIC will not tolerate the use or the abuse of the regulatory system by anyone to coerce others. Unethical deals made behind closed doors - to "buy" an endorsement from one party, to extract money from the other party, or to silence criticism by either party - harm the parties involved. No financial institution or community group should succumb to extortion or bribery by either party for any reason. The legislation underscores this view.

We all know about the value of building partnerships that work, because we understand the importance of safe and sound lending in low- and moderate-income communities.

Loans that are not profitable undermine the ability of institutions to lend in these areas. Loans that are not repaid result in abandonment of property, the closure of businesses, and the loss of jobs. Ultimately, the quality of life for residents, the economic vitality of their neighborhoods, and the safety and soundness of banks and thrifts deteriorate.

Lenders ensure the quality of these loans in three ways: by managing risk; improving affordability and profitability; and helping to create a healthier lending environment through investments and financial services. It is a blueprint for good CRA performance. One that most of you here today follow.

However, lower-income neighborhoods often lack the capital that provides borrower equity and repayment guarantees - so necessary for safe and sound lending. Financial institutions acting alone cannot always replace this capital or provide the services necessary to sustain affordable housing or economic revitalization.

Partnerships with community organizations, non-bank financial organizations, consortia, and government can achieve what banks and thrifts alone cannot. You know this; so do we.

In the housing area, for example, community-based organizations access funds from public and private sources to replace missing capital that can augment a buyer's down payment or reduce monthly payments. One recent example from Salt Lake City illustrates how the process can work. A bank provided loans to a local non-profit organization that develops and rehabilitates affordable housing in the city. The loan, combined with Community Development Block Grant funds, was used to build affordable single-family residences and to rehabilitate multi-family properties in designated redevelopment areas in Salt Lake City. The project has been so successful in meeting a need for affordable housing - and strengthening neighborhoods - that the bank has agreed to expand the program for another three years - and into additional neighborhoods.

Stronger neighborhoods are good for the community and good for the banks because they create a safe and sound lending environment in which lending opportunities abound.

Partnerships are equally important in revitalizing commercial business districts. Commercial development and revitalization projects often depend on three levels of capital to succeed - equity capital, mezzanine financing, and senior debt. Bank loans can provide the senior debt - but a community development project normally will not be viable with bank debt alone. This is where partnerships are critical in providing equity capital or mezzanine financing. The Small Business Investment Corporation or SBIC program is one vehicle for raising equity capital. Consortia often provide mezzanine financing.

Let me illustrate.

In Los Angeles, 15 major tracts of land have been targeted for economic redevelopment - properties large enough to be developed for commercial purposes. A consortium of banks has set aside funds to provide mezzanine financing for viable development proposals. In a typical deal in which this funding would be used, a private developer might put up 15 percent equity. The consortium would finance 30 percent of the project at a rate of return that will vary from 9 to 15 percent - an attractive yield for the consortium members. And a commercial bank will finance the rest. The bank loan - with a 55 percent loan to value ratio - would likely be attractive to many banks. The loan agreement is the final piece of the puzzle that makes the transaction work.

These are not apocryphal tales. They are real. Most partnerships like these, across the country, exist at the behest of elected public officials, industry leaders, bankers, neighborhood residents, and churches. Of course, some community groups do protest, challenge, or complain, but most do not - and for good reason. They work well with banks for the benefit of their communities - and they should continue to do so.

That is why I stated at the outset that we must craft regulations carefully. We must fully comply with the law, and at the same time, consider the effect that the implementing regulations will have on banks and the communities they serve.

So, let's now look at some of the technical elements of the Sunshine provisions, and let's consider at least a few of the questions that may arise in our proposal next month.

- What are covered agreements?

The law describes covered agreements as written contracts, arrangements or understandings that:

- are "in fulfillment of the CRA;"
- involve cash payments, grants, or other considerations of more than $10,000 annually; or loans totaling more than $50,000 annually - with several important exceptions;
- involve a "CRA contact" by someone who has "commented on, testified about, discussed with, or otherwise contacted the institution, concerning the CRA."

When the time comes, when you review the proposed regulation, I ask that you focus on the effect these terms will have on you. For example: Does the term "in fulfillment of the CRA" mean anything or everything considered during a CRA examination? Or, during the application process? How would this matter to you? Think about the effect these terms would have on you - on your day-to-day activities, the loans and investments you make, the services you provide. Let us know your views. What will you recommend?

- What becomes public?

Under the law, each party must bring an agreement "into the sunshine" of public disclosure. That means that agreements entered into after November 12, 1999, must be available to the public upon request - and it means that community organizations, banks and others that are parties to the agreement must make it available.

- What is reported?

In another "sunshine" provision, the insured institutions and the non-government party to an agreement after May 12, 2000, must make annual reports to the institution's Federal banking agency about the agreements. Reports must include basic information about the terms of the agreement, and, of course, any funds provided to either party.

In addition, the community group or person receiving funds from an insured institution also must give an itemized accounting of how it used any funds received during the previous year.

- What will we ask in the notice of proposed rulemaking?

No doubt, we will ask that you consider the most efficient way to report this information. We will ask how to capture just enough information to accomplish our goal without imposing undue burden. What is the best means to the end? For example, to the extent that other corporate reports, documents or tax returns may already exist, that provide the level of detailed information necessary, perhaps they could be used. There may be other ways. How can banks and community partners work together to provide the information and limit burden?

I ask the bank community reinvestment and compliance officers here today to consider how you can assist your community group partners in meeting the requirements of the CRA sunshine provisions.

Your community partners often have limited resources.

I ask you to think about our proposed regulation during your discussions of community development activities this week.

Give it the attention it deserves.

We must ensure that community partnerships are encouraged.

We must limit the burden on banks and community groups wherever possible.

And we must comply fully with the law.

Please carefully review the joint notice of proposed rulemaking when it is published next month.

It will present many other examples and pose other questions.

Give us the benefit of your thinking.

We weigh every comment we receive. And we value those that are thought-provoking - that give us practical, "real life" perspective on what we are proposing.

Thank you.

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