



OVERVIEW OF LAWS AND REGULATIONS

Disclosure and Reporting of CRA-Related Agreements

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Executive Summary:

The CRA Sunshine Regulations as implemented by Section 711 of the Gramm-Leach-Bliley Act (GLBA), requires nongovernmental entities or persons (NGEPs), insured depository institutions, and affiliates of insured depository institutions that are parties to certain agreements that are in fulfillment of the Community Reinvestment Act of 1977 to make the agreements available to the public and the appropriate agency and file annual reports concerning the agreements with the appropriate agency. The rule identifies the types of written agreements that are covered by section 48 of the Federal Deposit Insurance Act (referred to as covered agreements) and defines many of the terms used in the statute. The rule also describes how parties to a covered agreement must make the agreement available to the public and the appropriate agencies and explains the type of information that must be included in the annual report filed by a party to a covered agreement.

Business Areas Impacted:

- Marketing
- Credit Operations
- Retail Operations
- Internal Controls Management
- Customer Service



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Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENTS, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt a policy for implementing the Act and OTS regulations. Maintain written procedures to ensure compliance with the statute.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Covered-Agreement Determinations</p> <p>A covered agreement is any contract arrangement or understanding that meets all of the following criteria:</p> <ol style="list-style-type: none"> 1. The agreement is in writing. 2. The parties to the agreement include: <ol style="list-style-type: none"> I. One or more insured depository institutions or affiliates of an insured depository institution; and II. One or more NGEPs. 3. The agreement provides for the insured depository institution or any affiliate to: <ol style="list-style-type: none"> I. Provide to one or more individuals or entities (whether or not parties to the agreement) II. 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, as defined in § 533.4 of this part. 5. The agreement is with a NGEP that has had a CRA communication as described in § 533.3 of this part prior to entering into the agreement. 	Continuing	Covered Agreements



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REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENTS, RECORD OR REPORT
The content of the annual reports reference above are described in Section 533.7(d) and (e).		
<p>Training</p> <p>Provide training to any employee that has the ability to approve, direct, authorize, or negotiate an agreement, along with all other employees whose duties are affected by the requirements of the regulation.</p>	Continuing	<p>Policies and Procedures</p> <p>Training Records</p> <p>Curriculum</p>
Updating	Continuing	All Affected Documentation
<p>Internal Reviews</p> <p>Conduct an internal review at least annually to assess compliance with the regulation and conformity of an institution s practices with its policies and procedures.</p>	Annual (or more frequently)	Internal Review Procedures/Reports



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SUMMARY OF THE DISCLOSURE AND REPORTING REQUIREMENTS OF THE REGULATION

DISCLOSURE OF COVERED AGREEMENTS TO THE PUBLIC

	NGEP	Insured Depository Institution or Affiliate
Which agreements must be disclosed to the public?	Covered agreements entered into after 11/12/99.	Covered agreements entered into after 11/12/99.
When does my duty to disclose a covered agreement to the public begin?	4/1/01	4/1/01
What event triggers my obligation to disclose a covered agreement to a member of the public?	An individual or entity must request you to make a covered agreement available.	An individual or entity must request you to make a covered agreement available.
How do I disclose a covered agreement to the public?	You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § .6(b)(3).	You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § .6(b)(3). An IDI or affiliate may make an agreement available by placing a copy of the covered agreement in the IDI's CRA public file. The IDI must make the agreement available in accordance with the CRA rule on public files.
When does my duty to disclose a covered agreement to the public end?	Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02.	Twelve months after the end of the term of the agreement. However if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02.



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DISCLOSURE OF COVERED AGREEMENTS TO THE RELEVANT SUPERVISORY AGENCY (RSA)

	NGEP	Insured Depository Institution or Affiliate
What agreements must be disclosed to the RSA?	Covered agreements entered into after 11/12/99.	Covered agreements entered into after 11/12/99.
When does my duty to disclose a covered agreement to the RSA begin?	4/1/01	4/1/01
When must I disclose a covered agreement to the RSA?	You must disclose your covered agreement to the RSA within 30 days after the RSA requests a copy of the agreement.	You must disclose your covered agreement to the RSA within 60 days of the end of the calendar quarter after the agreement is entered into. However, if your agreement terminated before 4/1/01, you must disclose your agreement to the RSA by 6/30/01.
How do I disclose a covered agreement to the RSA?	You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § .6(b)(3).	<p>You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § .6(b)(3).</p> <p>Alternatively, you may provide a list of all covered agreements that you entered into during the calendar quarter, and include the information described at § .6(d)(1). If the RSA requests a copy of an agreement referenced in the list, you must provide a copy of the agreement and a public version (if applicable) within seven calendar days.</p>



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	NGEP	Insured Depository Institution or Affiliate
When does my duty to disclose a covered agreement to the RSA end?	Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, you must make the agreement available to the RSA until 4/1/02.	If you file a list, your obligation to provide a copy of an agreement referenced in the list terminates thirty-six months after the end of the term of the agreement.



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FILING OF ANNUAL REPORTS WITH THE RSA

	NGEP	Insured Depository Institution or Affiliate
What agreements are subject to annual reporting requirements to the RSA?	Covered agreements entered into on or after 5/12/00.	Covered agreements entered into on or after 5/12/00.
What periods require an annual report?	You must report for each fiscal year in which you receive or use funds or other resources under the covered agreement. Alternatively, you may file your report on a calendar year basis.	You must report for each fiscal year in which you have any reportable data concerning the covered agreement described in §. 7(e)(1)(iii), (e)(1)(iv) or (e)(1)(vi). Alternatively, you may file your report on a calendar year basis.
When must I file the annual report?	<p><u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.</p> <p>Alternatively, you may, within this six-month period, provide the report to an IDI or affiliate that is a party to the agreement. You must include written instructions requiring the IDI or affiliate to promptly forward the report to the RSA(s).</p> <p><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA (or with an IDI or affiliate that is party to the agreement) no later than 6/30/01.</p>	<p><u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.</p> <p>If a NGEP has provided its report to you, you must also file that report with the RSA(s) on behalf of the NGEP within 30 days of receipt.</p> <p><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA no later than 6/30/01.</p>
May I file a consolidated annual report?	If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements.	If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements.



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	NGEP	Insured Depository Institution or Affiliate
		If you and your affiliates are parties to the same covered agreement, you may file a single consolidated annual report relating to the agreement.
What must I include in the annual report?	You must include the information described at § .7(d).	You must include the information described at § .7(e).



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Questionnaire

Does the institution have formal operating procedures that address the requirements of the CRA Sunshine Regulations?

Has the institution or its affiliates entered into any agreements that meet the definition of a covered agreement as defined in 533.2(a)?

Does the institution make copies of covered agreements involving the institution or its affiliates available to any individual or entity upon request in accordance with 533.6(b)?

Does the disclosed covered agreements involving the institution or its affiliates contain the following required information in accordance with 533.6(b)(3)?

- i. The names and addresses of the parties to the agreement;
- ii. The amount of any payments, fees, loans, or other considerations to be made or provided by any party to the agreement;
- iii. Any description of how the funds or other resources provided under the agreements are to be used;
- iv. The term of the agreement (if the agreement establishes a term); and
- v. Any other information that the relevant supervisory agency determines is not properly exempt from public disclosure.

If the institution does not disclose the information in accordance with 533.6(b), was the information withheld from public disclosure confidential or proprietary information that the party believes the relevant supervisory agency could withhold from disclosure under the Freedom of Information Act (5 U.S.C. 522 *et seq.*) (FOIA) in accordance with 533.6(b)(2)?

Within 60 days of the end of each calendar quarter, does the institution provide information pertaining of covered agreement(s) involving the institution or its affiliates to each relevant supervisory agency: in accordance with 533.6(d)?

- (i)(A) A complete copy of each covered agreement entered into by the insured depository institution or affiliate during the calendar quarter; and
- (B) A public version of the agreement that excludes such information (other than any information described in paragraph (b)(3) of this section) and an explanation justifying the exclusions; or



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- (ii) A list of all covered agreements entered into by the insured depository institution or affiliate during the calendar quarter that contains:
 - A. The name and address of each insured depository institution or affiliate that is a party to the agreement;
 - B. The name and address of each NGEF that is a party to the agreement;
 - C. The date the agreement was entered into;
 - D. The estimated total value of all payments, fees, loans and other consideration to be provided by the institution under the agreement; and
 - E. The date the agreement terminates.

Does the institution file an annual report with each relevant supervisory agency, for itself or its affiliates, for all covered agreements entered into on or after May 12, 2000, for any fiscal year in which the institution or affiliate - as required by 533.7(c)(2)?

- (i) Provides or receives any payments, fees, or loans under the covered agreements that must be reported under paragraphs (e)(1)(iii) and (e)(1)(iv) of this sections; or
- (ii) Has data to report on loans, investments, and services provided by a party to the covered agreement under the covered agreement under paragraph (e)(1)(vi) of this section.

Does the annual report filed by the insured depository institution or affiliate include the following information as required by 533.7(e)?

- (i) The name and principal place of business of the insured depository institution or affiliate filing the report;
- (ii) Information sufficient to identify the covered agreement for which the annual report is being filed, such as by providing the names of the parties to the agreement and the date the agreement was entered into or by providing a copy of the agreement;
- (iii) The aggregate amount of payments, aggregate amount of fees, and aggregate amount of loans (listed separately) provided by the insured depository institution or affiliate under the covered agreement to any other party to the agreement during the fiscal year;



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- (iv) The aggregate amount of payments, aggregate amount of fees, and aggregate amount of loans (listed separately) received by insured depository institution or affiliate under the covered agreement from any other party to the agreement during the fiscal year;
- (v) A general description of the terms and conditions of any payments, fees, or loans reported provided to or received from, another party under the agreement as reported under paragraphs (e)(1)(iii) and (e)(1)(iv) of this section;
- (vi) The aggregate amount and number of loans, aggregate amount and number of investments, and aggregate amount of services provided under the covered agreement to any individual or entity not a party to the agreement: (A) By the insured depository institution or affiliate and (B) By any other party to the agreement, unless such information is not known to the insured depository institution or affiliate or will be contained in an annual report filed by another party.

Does the insured depository institution file its annual report with each relevant supervisory agency for the covered agreement no later than six months following the end of the fiscal year covered by the report in accordance with 533.7(f)(2)(1)?

Does the insured depository institution or affiliate that receives an annual report from a NGEF pursuant to paragraph (f)(2)(i) the *Alternative method for fulfilling annual reporting requirement for a NGEF* file the report with the relevant supervisory agency or agencies on behalf of the NGEF within 30 days in accordance with 533.7(f)(2)(ii).

Does the institution have written policies and procedures that provide for the periodic self-assessments of its compliance with the various provisions of the CRA Sunshine regulation?