

128

New York Law School  
57 Worth St.  
New York, NY 10013  
(212) 431-2180

Manager, Dissemination Branch  
Information Management & Services Division  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
Attention Docket No. 2000-44

Dear Office of Thrift Supervision:

I am a professor at New York Law School and a member of the National Community Reinvestment Coalition (NCRC). I am writing to urge the federal banking agencies not to promulgate regulations implementing the so-called "CRA Sunshine Law" on the grounds that the law violates the First Amendment. If the agencies promulgate regulations, they should do so in a way that is as least-intrusive as possible.

The recent studies by the OCC and the Federal Reserve and the HMDA data for the past several years leave no doubt that the CRA has encouraged banks to lend billions of dollars to underprivileged communities. Additionally, NCRC's research has identified hundreds of lending agreements totaling more than \$1 trillion in loans to low- and moderate-income communities that directly result from the CRA. The CRA Sunshine Law threatens the future of such lending by stifling the free speech of community advocates that press banks to improve their records and imposing disclosure requirements community-based organizations that make lending deals with banks.

Because of the threat the CRA Sunshine Law poses to First Amendment rights and to effective CRA enforcement, the federal banking agencies should not promulgate regulations until the Department of Justice issues an opinion that it is constitutional. If the federal banking agencies do issue regulations, the regulations should limit the reporting requirements to agreements that have a material impact on the bank's CRA record by increasing its level of CRA-related lending, investments, and services and specify that the IRS Form 990 is an appropriate vehicle for disclosure.

I have read NCRC's comment letter and attachments and support their positions--particularly their argument that the CRA Sunshine Law is unconstitutional--and urge the federal banking agencies to adopt them.

Thank you for this opportunity to comment.

Yours truly,

Richard Marsico  
Professor of Law