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DIGITAL DIVIDE POLICY BOOK [3]

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NEW MARKETS OUTREACH AND THE LMI INVESTMENT INITIATIVE

Summary

In the six years since President Clinton took office, the economy has created nearly 17.7 million new jobs. Yet even during one of the greatest periods of sustained economic growth in American history, we still have not achieved true equality of opportunity. Concentrations of poverty and joblessness continue to have a devastating effect on the social and economic fabric of communities across the country. This lack of opportunity is at the heart of our deepest social divisions.

The evidence strongly suggests that there are attractive business opportunities in untapped rural and inner city communities that are not being met. One of the most critical needs of these communities is access to equity investment.

The president's New Markets Initiative is designed to make it more attractive to invest in these communities and ensure that the opportunity to stimulate job growth, neighborhood revitalization and economic development of America's untapped new markets is not lost.

SBA's New Markets Outreach and LMI Investment Initiative for Small Business Investment Companies (SBICs) are key components of the President's New Markets Initiative. They complement SBA's existing equity investment program, encouraging small business expansion by providing intensive technical assistance and equity-type capital in rural and inner city areas.

Outreach Workshops

In July 1998, President Clinton directed SBA to hold workshops to promote the Small Business Investment Company (SBIC) program with the primary goal of encouraging the formation of SBICs focused on meeting the needs of the underserved, primarily in rural and inner city areas. As a result, SBA has expanded its existing efforts to recruit potential SBIC investors and management teams with experience in investing in small businesses in these areas.

SBA has organized a series of six workshops designed to bring together three main constituencies: 1) funding sources, primarily the banking community; 2) venture managers, including existing SBICs and Specialized SBICs; and 3) community development organizations. Beginning in late March, workshops are scheduled for Chicago, Kansas City, New York, Atlanta, Dallas and San Francisco.

These workshops will result in the creation of new SBIC licensees, new interest in rural and inner city investing, and a database of investment and community development professionals that will be available to work with SBA on this effort.

LMI Investment Program

As part of its outreach effort, SBA is encouraging existing SBA licensed SBICs to seek out investment opportunities in low- and moderate-income (LMI) areas, and is encouraging formation of new SBICs that will focus their investments in these areas. In addition, the SBA will create a new funding mechanism to provide financial incentives to encourage SBICs and Specialized SBICs to invest in these areas.

LMI areas are census tracts where at least 20 percent of the population is beneath the poverty level, or where median family income is less than 80 percent of median family income for the surrounding area. SBA also intends to include other areas in which economic development is lagging, including HUBZones, Enterprise Communities, Empowerment Zones and counties with persistent poverty.

Under the LMI Investment program, SBA will create a new funding mechanism for licensees in SBA's SBIC and Specialized SBIC programs. The funding will be provided to licensees in amounts that match the level of their investments in small businesses that: 1) are located in LMI areas, or 2) hire at least 35 percent of their workforce from among residents of LMI areas.

SBICs making LMI investments will be eligible for a new form of debenture financing, known as LMI debentures. LMI debentures are debt instruments that are sold with an SBA guarantee in the Nation's capital markets to raise funds. The funds raised are, in turn, provided to SBICs to augment their private capital. The SBICs combine the debenture funds and their private capital to finance their investments in small businesses. Interest on the Government funding will be deferred for the first five years of the 10-year term. That gives SBICs more time to nurture their investments in small businesses before they have to start making payments on the money used to finance them.

As an additional incentive for LMI Investments, SBA will modify some SBIC regulations involving control, minimum investment terms and the use of royalty payments.

The LMI Investment Initiative will fit within SBA's FY 1999 and proposed FY 2000 budget levels for the Small Business Investment Company (SBIC) program. It will not require enabling legislation and can be established through changes in SBA's regulations.

SBA's SBIC Program

At the end of FY 98, the SBIC program had a total investment pool of $9 billion, up by more than $2.1 billion from the end of FY 97. In FY 98, licensees made 3,456 investments worth $3.2 billion in small businesses. Over the past 40 years, the SBIC program has provided roughly $20 billion in equity and debt financing to more than 85,000 different companies. Many of them have become household names: Intel, Apple Computer, Federal Express, America On Line, Callaway Golf, Compaq, Sports Authority, Outback Steakhouse, Staples and Sun Microsystems.

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DEPARTMENT OF THE TREASURY

TAX LEGISLATIVE COUNSEL
1500 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20220

DATE: 1/12/00

Number of Pages: 5 (including cover)

TO: Jason Furman

Addressee's FAX Number: ~~456-2223~~ 456-2878

Addressee's Confirmation Number:

FROM: Steve Arkin **Tel. No:** (202) 622- 1336

Sender's FAX Number: (202) 622-9260

Location: Room 1322 M.T.

Sender's Confirmation Number: (202) 622-

Comments/Special Instructions:

Jon said you wanted these writeups from last years Greenbook.

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UNCLASSIFIED

General Explanations of the Administration's Revenue Proposals



Department of the Treasury
February 1999

EXTEND WAGE CREDIT FOR TWO NEW EMPOWERMENT ZONES

Current Law

The Omnibus Budget Reconciliation Act of 1993 (OBRA '93) authorized a Federal demonstration project in which nine empowerment zones and 95 enterprise communities would be designated in a competitive application process. Of the nine empowerment zones, six were to be located in urban areas and three were to be located in rural areas. State and local governments would nominate distressed areas and propose strategic plans to stimulate economic and social revitalization.

Among other benefits, businesses located in the nine original empowerment zones are eligible for three Federal tax incentives: a wage credit; an additional $20,000 per year of section 179 expensing; and a new category of tax-exempt private activity bonds. Businesses located in enterprise communities are eligible for the new category of tax-exempt bonds. OBRA '93 also provided that Federal grants would be made to designated areas.

The Taxpayer Relief Act of 1997 authorized the designation of two additional empowerment zones located in urban areas (the "additional empowerment zones") which generally are eligible for the same tax incentives as are available within the empowerment zones authorized by OBRA '93. The two additional empowerment zones, which have now been designated, are located in Cleveland, Ohio and Los Angeles, California. The tax incentives provided for these new zones take effect on January 1, 2000 and generally remain in effect for 10 years. The wage credit, however, is phased down beginning in 2005 and expires after 2007.

Reasons for Change

The Administration believes that the availability of the tax incentives for the two additional empowerment zones should be expanded in order to help combat the pervasive poverty, and to stimulate the revitalization of these areas.

Proposal

The proposal would provide that the wage credit would remain in effect for a 10-year period from that date and would be phased down using the same percentages that apply to the original empowerment zones designated under OBRA '93.

The proposal would be effective as of January 1, 2000.

EXTEND THE WORK OPPORTUNITY TAX CREDIT

Current Law

A work opportunity tax credit (WOTC) currently is provided for hiring individuals from certain targeted groups. The credit equals a percentage of qualified wages paid during the first year of the individual's employment with the employer. The credit percentage is 25 percent for employment of at least 120 hours but less than 400 hours and 40 percent for employment of 400 or more hours. The maximum amount of qualified wages paid to an individual is $6,000. The credit expires with respect to employees who begin work after June 30, 1999.

Reasons for Change

The goal of the Work Opportunity Tax Credit is to provide employers with a tax incentive to hire individuals who have traditionally had difficulty entering and remaining in the work force. An extended wage credit would continue to serve as an inducement for employers to hire these individuals and to invest in their training.

Proposal

The Work Opportunity Tax Credit would be extended so that the credit would apply with respect to employees who begin work before July 1, 2000.

The proposal would also clarify the coordination of the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit with respect to an individual whose first year of employment does not coincide with the employer's taxable year. The proposed clarification would be effective for taxable years beginning on or after the date of first committee action.

EXTEND THE WELFARE-TO-WORK TAX CREDIT

Current Law

The welfare-to-work tax credit enables employers to claim a tax credit for eligible wages paid to certain long-term family assistance recipients. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. Thus, the maximum credit is $8,500 per qualified employee. The credit expires with respect to individuals who begin work after June 30, 1999.

Reasons for Change

Extending the welfare-to-work tax credit would continue to encourage employers to hire, invest in training, and provide certain benefits and more permanent employment, to long-term welfare recipients.

Proposal

The welfare-to-work tax credit would be extended for one year, so that the credit would be effective for individuals who begin work before July 1, 2000.

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Ariel M. Zwang
01/10/2000 05:29 PM

To: natasha_f._bilimoria@opd.eop.gov
cc: Jacquie M. Lawing/SECY/HHQ/HUD@HUD
Subject: Information you requested -- IN DRAFT FORM

DRAFT DRAFT

Here is the information you requested regarding Empowerment Zones and EDI/108 for 2001.

Empowerment Zones

The FY 2001 budget proposes $150 million in mandatory funding for urban Empowerment Zones, which would fully fund the 15 Round II participants. In FY 2000, Congress appropriated $55 million for the Round II Zones; and $45 million in FY 1999.

Empowerment Zones combine Federal tax incentives with direct funding for physical improvements and social services in highly distressed areas. The program requires unparalleled levels of private sector involvement and investment: it brings all stakeholders in a community – residents, non-profits, businesses, and Government – to the table to develop a locally-fashioned and locally-controlled comprehensive revitalization strategy.

EDI/108

The President has included a request of $100 million in Economic Development Initiative (EDI) funds for FY 2001. [The total in FY 2000 was $275 million, but most of the funds were earmarked. Less than $23 million was available for competitive grant programs; this compares with the $100 million requested this year.]

As for the Section 108 loan guarantee program, the President's 2001 budget includes a commitment level (i.e. HUD can guarantee loans up to this amount) of $1.2 billion.

EDI and Section 108 loan guarantees provide resources to create partnerships with the private sector to create or retain jobs in urban and rural neighborhoods where they are most needed. This combination has proven to be an effective means for cities to leverage private funding to promote economic development in distressed areas. Based on past experience, it is estimated that each $1 of direct Federal investment in an economic development project, including CEF grant funds and Section 108 credit subsidy funds, will result in approximately $4.59 in private investment. Successful projects funded in the past include revolving loan funds, inner-city

FROM OMB CHAPTER

Empowerment Zones (EZs) / Enterprise Communities (ECs)

While the New Markets and CDFI programs address capital access and credit, the EZ and EC initiative is the foundation of the Administration's empowerment agenda for communities with high unemployment and poverty rates. This initiative challenges qualified urban and rural communities to develop comprehensive strategic plans for revitalization, with input from residents and community partners. The program selects communities with the most innovative plans and significant local commitments.

Investment in EZs and ECs is available in many forms. The Federal Government provides tax benefits for businesses and flexible grants to communities for job training, day care and other purposes. EZs and ECs can apply for waivers from Federal regulations, enabling them to better address local needs. Special set-asides from USDA rural development programs are available to rural EZs and ECs.

Original, Round I, EZs and ECs: Designated in 1994, these EZs and ECs are showing results. The Baltimore, MD EZ, for instance, has created approximately 2,860 new jobs as result of Title XX funding and other leveraged investments and 3,250 zone residents placed directly into jobs through various workforce placement partners. Through June 1, 1999 Empower Baltimore Management Corporation (EBMC) has spent more than $18,450,000 across four components of Baltimore's strategy: Business development for job creation, workforce development, quality of life and community capacity building.

The budget proposes mandatory funding for the remaining 9 years of funding for urban and rural EZs and ECs. Designated EZ and EC communities will receive priority consideration for funds from Federal economic development programs and for waivers of certain regulatory requirements from the Community Empowerment Board chaired by the Vice President.

Other programs that promote economic development and provide services to under served markets include: The HUD Community Empowerment Fund (CEF) -- The Community Empowerment Fund / ED1 working in tandem with the Section 108 loan guarantee program will work with the CEF pilot program beginning in FY 2000 to create loan pools to improve securitization of Section 108 loans.

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PROGRESS ON PRESIDENT CLINTON'S NEW MARKETS INITIATIVE

November 30, 1999

New Markets Legislation Introduced in Congress and Regulatory Changes Proposed for the Small Business Investment Company Program. Three important elements of President Clinton's New Markets Initiative have been introduced in both the Senate and the House. The New Markets Initiative is designed to spur $15 billion in new private investment in underserved areas. The initiative was originally proposed and included in President Clinton and Vice President Gore's FY 2000 budget. The proposal will help encourage private sector equity investment in underserved communities and low and moderate-income areas throughout the country:

- **Introduction of The New Markets Tax Credit.** This credit will be available to taxpayers who invest in certain investment funds and institutions, which, in turn, use the investment proceeds to finance businesses in low- and moderate-income communities. The proposal would provide a 25-percent credit (in present-value terms) for investments in a wide range of investment vehicles. Eligible investment companies include community banks, venture funds and corporations, and the new investment company programs (described below) created by the New Markets Initiative. These investment entities must have as their primary mission serving, or providing investment capital for, low- and moderate-income communities. The New Markets Tax Credit is expected to help spur $6 billion of new equity capital for business investment in America's underserved communities. Representative Rangel has introduced this proposal in the House (H.R. 2713), and Senator Rockefeller and Robb have introduced similar legislation in the Senate (S. 1526).
- **Passage on Appropriations for America's Private Investment Companies (APICs).** $20 million in funding was included in the VA/HUD/Independent Agencies Appropriations bill for APICs (if authorized). Just as America's support for the Overseas Private Investment Corporation helps promote growth in emerging markets abroad, APIC will encourage private investment in this country's untapped markets. Senator Sarbanes and Congressman LaFalce have introduced legislation in the Senate (S. 1565) and the House (H.R. 2764) that would provide guaranteed debt to private investment companies, licensed by HUD, to help leverage private equity capital and lower the cost of capital for communities. APICs would leverage up to $800 million dollars of new investment in America's underserved communities.
- **Progress on SBIC's Targeted to New Markets.** As a result of regulatory changes that were made in the fall of 1999, SBA will now be able to offer more flexibility and new financing terms for Small Business Investment Companies (SBICs) that invest in underserved areas. For over 40 years, SBA's Small Business Investment Company (SBIC) program has provided roughly $23 billion in equity and debt financing to more than 86,000 different companies, helping them to grow from small businesses to household names, like AOL and Staples. However, too little of the capital invested has benefited our cities and rural communities. These regulatory changes will help target additional capital for investment in low-income communities.
- **Passage on Appropriations for New Markets Venture Capital (NMVC) Firms.** $15 million in funding was included in the Consolidated Appropriations Act, FY 2000 for New Markets Venture Capital firms (if authorized). NMVC firms will provide incentives to increase the availability of venture capital in low and moderate-income communities for small businesses. Expert guidance will be made available to small business entrepreneurs in inner city and rural areas through the program. Ten to twenty NMVC firms are planned. SBA will match the equity and technical assistance of private investors. Senator John Kerry introduced this legislation (S. 1594) in the Senate and it is expected that a proposal will be introduced shortly by Representative Velazquez in the House. On October 26, 1999, the President vetoed an earlier version of the Commerce/State/Justice bill that did not contain any of these provisions.

Additional Elements of the New Markets Initiative. In addition to the above legislation, President Clinton's New Markets Initiative includes several other elements, some of which will require new legislation and others that are expansions of existing initiatives.

- **Microenterprise Lending and Technical Assistance.** Microenterprise initiatives in the FY 2000 budget include the proposed PRIME Act, which will provide microenterprise technical assistance through competitive grants to micro-enterprise development organizations that focus on low-income entrepreneurs. The program has been authorized in the Financial Services Modernization Act (S. 900 & H.R. 10) and will be administered by SBA. President Clinton's and Vice President Gore's proposal also includes a doubling of support for technical assistance in SBA's Microloan Program and a doubling of support for SBA lending to leverage over $75 million in new microlending. The microenterprise strategy will also involve new funding for Individual Development Accounts (IDAs) and for SBA's

One-Stop Capital Shops. On October 26, 1999, the President vetoed an earlier version of the Commerce/State/Justice bill that did not contain any of these provisions.

- **Community Development Financial Institutions (CDFI) Fund.** On October 20, 1999, the President signed the VA/HUD/Independent Agencies Appropriations bill that included $95 million for the CDFI Fund that will expand the capacity of the network of community development financial institutions across the country, spurring the flow of capital to distressed neighborhoods and low-income residents.
- **BusinessLINC (Learning, Investment, Networking and Collaboration).** $1.5 million in funding was included in the Consolidated Appropriations Act, FY 2000 to expand BusinessLINC-- an innovative public-private partnership launched by Vice President Gore --- for New Markets in economically distressed communities. BusinessLINC is designed to encourage large businesses to work with small business owners and entrepreneurs. The Business Roundtable (BRT) has agreed to be the lead organization for the BusinessLINC National Coalition. Their efforts to expand include the creation of six new BusinessLINC chapters in Washington, DC, Dallas, Boston, Chicago, the Mississippi Delta and New York City. In addition, BusinessLINC hopes to double the number of local chapters to 12 by the end of its first year.

A Record On Which to Build. This legislation expands upon the innovative approach to community empowerment that President Clinton and the Vice President have pioneered for nearly seven years.

- **Creating the CDFI Fund.** In 1994, President Clinton proposed and signed into law the CDFI Fund which, through grants, loans, and equity investments, is helping to create a network of community development financial institutions in distressed areas across the United States.
- **Reforming CRA.** In 1995, the Clinton Administration reformed the CRA regulations to emphasize performance. The private sector has pledged more than $1 trillion going forward in loans to distressed communities – and more than 95% of these financial commitments have been made since 1992. **[Source: National Community Reinvestment Coalition]**
- **Keeping CRA Strong & Relevant Under Financial Modernization.** President Clinton made clear this year that he was prepared to veto long overdue legislation to modernize the financial landscape if it allowed a bank with an unsatisfactory CRA rating to take advantage of the new powers under the bill. Because of this, for the first time ever, a bank's CRA rating will be relevant to its merger or expansion in non-banking activities.
- **Fighting to Preserve and Improve CRA.** President Clinton made clear that he was prepared to veto long overdue legislation to modernize the financial landscape, if it allowed a bank with an unsatisfactory CRA rating to take advantage of the new powers under the bill. As a result, the conferees on the financial modernization bill provided that, for the first time, a bank's CRA rating is relevant to its merger or expansion in non-banking activities. In addition, President Clinton fought to eliminate provisions that would have excluded some banks from CRA coverage and limited the effectiveness of the merger application review process. President Clinton thus assured that CRA remains vital and relevant in the new financial landscape. This achievement builds on President Clinton's dedication to CRA. In 1995, the Clinton Administration reformed the CRA regulations to emphasize performance. The private sector has pledged more than $1 trillion in loans to distressed communities – and more than 95% of these financial commitments have been made since 1992.
- **Creating the Empowerment Zones.** President Clinton and Vice President Gore proposed and signed Empowerment Zone legislation in 1993 establishing 105 EZs and ECs across the country. Since the designation of the EZs and ECs, billions of dollars of private-sector investment has occurred in these areas.
- **Brownfields and Second Round of EZs.** The Administration's Brownfields action agenda has marshaled funds to clean up and redevelop up to 5,000 properties. The President has also signed into law a second round of EZs – 15 new urban and 5 new rural zones. The recently signed VA/HUD/Independent Agencies Appropriations bill provides $70 million in funding for Rural/Urban Empowerment Zones. All of the Urban and Rural EZs (20 Zones) and rural enterprise communities (20 ECs) that were designated by the Vice President in January 1999 as Round II zones will receive funding.
- **Economic Development Initiative.** President Clinton and Vice President Gore launched the Economic Development Initiative which combines HUD grants with low-interest guaranteed loans to leverage large-scale private investment for job creation in distressed communities. Since 1994, over $3.5 billion in loan commitments have been made and HUD will launch a pilot program to pool and securitized guaranteed loans, over time enabling the private secondary market for economic development loans to emerge.
- **Youth Opportunity Initiative and GEAR-UP.** In addition to expanding the Earned Income Tax Credit and raising the minimum wage, President Clinton has focused on bringing economic opportunity to young people through the Youth Opportunity initiative and GEAR-UP program. The Youth Opportunity initiative provides skills training leading to job opportunities for out-of-school youth aged 16-24. GEAR-UP helps disadvantaged high-school students prepare for college through mentoring and other forms of assistance.

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DOMESTIC MONETARY FUND EXECUTIVE SUMMARY

Concept

The Domestic Monetary Fund (DMF) is a structured pool of capital assembled from investors interested in providing needed capital to the ever-increasing, median/middle class, minority market, for a profit.

The concept of the DMF is to mirror the International Monetary Fund's (IMF) founding principle of creating a cooperative institution that financial companies such as banks and pension funds can voluntarily join. This institution will allow these companies to form a stable system of capital so that the minority community's median (average wage earner – see Note 1) and middle income consumers can sustain and expand businesses, real estate investments and lending services smoothly and without delay or burdensome regulations.

Like the IMF, the DMF members will have no effective authority over the DMF's economic policies.

Note 1: The median income is the middle income of all area households with two or more members.

Genesis

The quickening pace of the consolidations of financial institutions is narrowing the control of products, services and available capital to the country's median/middle class, minority communities into the hands of fewer organizations. If one looks at the nation as a whole, you will see that high wealth, high poverty overlaps with the present, growing minority community. Since many of these institutions have had difficulty providing these services in the past – a concern can be justified. However, instead of approaching this economic evolution as a problem, we are proposing the Domestic Monetary Fund as a timing opportunity.

Plan

After the capital is secured, the plan involves a process of funneling capital through "profitable products and programs" that will, at least initially, concentrate on those areas of service that will provide identified communities with the most social and economical impact (Exhibit A). The economic stimulus for immediate concentration will be:

1) Business Creation & Expansion
2) Real Estate Development
3) Credit Administration (Lending)

Development Tasks

Several tasks must be accomplished to:

1) Establish the DMF organizational structure (Exhibit B)
2) Acquire the needed capital
3) Establish the program administration
4) Appoint a National Oversight Board
5) Design and implement an administrative program to evaluate profitable products that will create businesses, real estate development and provide lending

Demography

The attached maps indicate a concentration of high poverty in the Southwest and Southeast. The Minority Patterns map shows that there is a significant overlap of minorities in these same areas.

The metropolitan centers in these regions, however, also offer thriving economies primarily around high technology and service industries. The prominent companies in these areas would be logical investors in the DMF and virtual automatic beneficiaries as well.

Conclusion

Minority businesses and political leaders realize that our communities are economically viable and that businesses are ready to start, real estate is ready to be developed and lending proceeds can be used as vehicles for work – while capital is often not available.

This fund will in effect serve as an extremely well capitalized "investment fund" where all of the investments will be made in the described, targeted communities. The key element of this fund is that all of the investments must return a "profit" back to the fund to ensure that it is not government-dependent and that it is self-sustaining.

COMMUNITY STRUCTURAL COMPONENTS
EXHIBIT A

Note: The range of target services can expand based on the needs of a particular community.

ECONOMIC
- Basic Banking Services & Access
- Business Development Capital
- Investment Capital
- Consumer Capital Access (loan/lease)

REAL ESTATE
- Single-Family Housing Development
- Multi-Family Housing Development
- Assisted Living Housing
- Dormitory Housing for HBCU
- Industrial/Commercial Development

HEALTH CARE
- Basic Services
- Prevention
- Emergency Urgent Care

SUBSTANCE ABUSE
- Prevention
- Treatment
- Maintenance

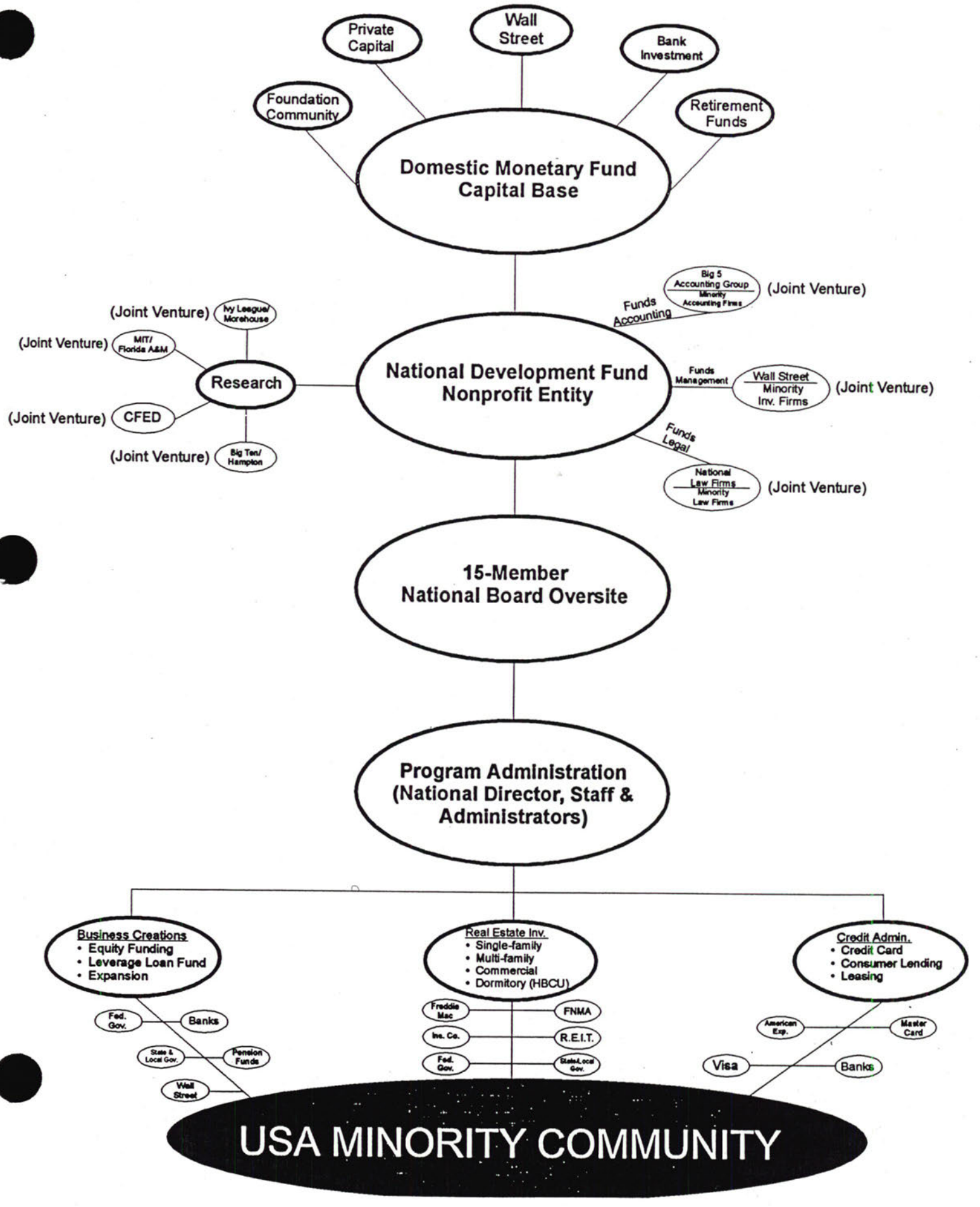
CRIME MITIGATION
- Community
- Government

EDUCATION
- Preschool (day care)
- School (public)
- Secondary (college)

EMPLOYMENT
- Self-employment
- Corporate (Fortune 1000, etc.)
- Private Small Businesses
- Government Entities

COMMUNITY RELATIONS
- Recreation/Arts Development
- Public Relations
- Political Relations
- Media Relations

CONCEPTUAL DOMESTIC MONETARY FUND NATIONAL MODEL
EXHIBIT B



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Remarks
Rev. Jesse Jackson
The National Community and Economic Development Conference
Sponsored by The Center for Community Development at the American Bankers Association and the Federal Housing Finance Board
September 15, 1999

I am pleased to have been asked to address this conference, the purpose of which is to explore successful community and economic development strategies that have brought new life and hope to underserved communities.

I have devoted the greater part of my efforts over the past two years to precisely this purpose: to greenline redlined America, to close the gaps between Wall Street and America's emerging markets, to recommit our nation to the unfinished work of Martin Luther King, who at the end of his life had just begun to outline a new agenda for economic justice.

I have gone to Wall Street, to Silicon Valley, to the financial centers of our great nation, to the hills and valleys of Appalachia, to the flatlands of the Mississippi Delta and at every stop I have brought a simple message: inclusion is the key to growth.

We are a stronger nation and we have a stronger economy when all Americans participate in that economy in a full and meaningful way.

On one of these missions—to the hills of southeastern Ohio, far from an airport of any size—I led a march—a march for Appalachia, a march to close the gaps that still persist between that region and the rest of America. On that march, I was joined by a man who I have come to know as a true friend of economic justice and a true friend of mine, the Chair of the Federal Housing Finance Board, Bruce Morrison. Bruce, thank you for walking the walk; thank you for your outstanding leadership.

What I have to say today I want to say plainly. I am here with a very precise goal in mind. And that is to say with as much clarity as I can muster: there can be no honest discussion of successful community and economic development strategies without acknowledging the pivotal, the central, the undeniable role of the Community Reinvestment Act in those successes.

The CRA is to economic justice what Brown v. the Board of Education is to public accomodations. The CRA is the starting point and the end point for bridging the capital gap. I will fight with every last ounce of energy I have to preserve the CRA, I will battle those who wish to undo it or weaken it. I will go to the mat on this one.

You see, if I were to write a Civil Rights Symphony, the four movements would be these: first, the end to slavery; second, the establishment of an equal right to public accomodations and the elimination of the separate, but equal doctrine; third, the institution of a meaningful right to vote; and fourth, the final movement, the movement that has yet to be written, the movement for economic justice: access to capital, access to corporate boardrooms, access to the centers of real power.

This final movement was the focus of Dr. King's work when he died. That work was deferred... by his death, by the Vietnam War, by Reagan era deficits... until today. Today, we stand at a very special place, with no Cold War or budgetary crisis to crush our capacity to dream. It is time to pick up where Dr. King left off.

And at the center of this renewed drive for economic justice lies the CRA. The CRA is working and America is stronger for it.

Can there be any question but that economic future of banks is stronger when the economic prospects of the communities they serve are more robust? Inclusion is the key to growth.

Home mortgages to African Americans: up 72%.
Home mortgages to Latinos: up 45%.
Home mortgages to Native Americans: up 31%.
Home mortgages to Asian Americans: up 30%.
To low- and moderate-income neighborhoods: up 45%
Investments in community development projects totaling $19 billion!

This is the track record of the CRA—and we are a better and stronger nation for it. And I contend the banks are better and stronger for it as well. Inclusion is the key to growth.

Is the NBA weaker for the addition of the WNBA? Of course not. Now there are millions of new, mostly female, fans of basketball from which to draw.

Is Major League baseball diminished because Jackie Robinson and Roberto Clemente paved the way for black and brown players and fans to join the game? I mean, where would the Chicago Cubs be without Sammy Sosa?—the prospect is too awful to contemplate.

Is our nation stronger because women and people of color have the right to vote? Of course it is and to consider the alternative is embarassing.

I say to you today that when we look back at this era, it will be just as unthinkable that so few people of color participated on the boards of directors of America's largest corporations. And when the day comes when the faces in corporate boardrooms look more like the faces of America, our nation and its economy will be stronger and better for it.

Is the South stronger because the wall of racial and economic partition has come tumbling down? The Atlanta of fifty years ago could not have hosted the Olympic games nor would it have been selected to do so. Indeed some of the people who battled to the bitter end to retain the walls of division have been the principal beneficiaries of the new and improved South.

Are we not better off as a nation, thanks to the CRA? And even if one doesn't care about our nation, aren't banks better off when the communities they serve have homes going up, people going to work, and businesses growing stronger? On the other side of the economic partition there is money, market, talent, and location for any one who wishes to see. These are the emerging markets of America. The CRA is the bridge that brings capital into these new markets.

To make the American dream a reality for all who live here: that must be our charge.

Yet there are dreambusters out there. The biggest dreambuster of them all is Senator Phil Gramm, Chairman of the Senate Banking Committee, who has made the evisceration of the CRA central to his efforts to pass a financial modernization bill. In the process, he has smeared the community groups that have worked so hard, often hand-in-glove with bankers like yourselves, to reclaim and rebuild their neighborhoods. The insiders will tell you: he knows how to play hardball. He knows how to play the DC game. And he's got a lot of people scared.

Well, I'm not afraid to play hardball either... not when it is in defense of core principles and essential legislation. I will be as vigorous in my opposition to his attempt to gut the CRA as I would be to an equivalent attempt to gut the Voting Rights Act.

And it saddens me to learn that one of the sponsors of this week's conference—a conference dedicated to an exploration of community development—namely, the American Bankers Association, has chosen to align itself with Phil Gramm on the CRA issue.

Yes, the ABA is backing Senator Gramm's efforts to roll back the CRA. In a memorandum sent to every member of the United States Senate last Spring, the President of the ABA expressed support for Gramm's efforts to block public comment on the CRA performance of banks engaged in mergers and acquisitions. In addition, the ABA has bought into his proposal to exempt from the CRA altogether rural banks with assets of less than $100 million.

I am saddenned because I am of the firm belief and I hope that some of you who are on the front lines of community banking here in this room are of the firm belief that the ABA should be out there leading the charge for the CRA. Stronger communities build stronger banks. CRA creates stronger communities. Therefore, CRA turns out to be in the enlightened self-interest of the banks who are required to abide by its dictates. It winds up forcing banks to do that which is in their own economic interest to do.

At a minimum, it's got to be a little dysfunctional sponsoring a conference on community development while calling for a rollback in the very piece of legislation that has breathed new life into community banking efforts. You shouldn't be able to have it both ways. A commitment to economic and community development requires a commitment to the CRA.

Thank goodness the President has stated that he intends to veto any financial modernization legislation that reaches his desk with the Senate bill's CRA provisions intact. The President is to be commended for his leadership on this issue.

I also strongly applaud his "New Market Initiatives," just now making their way to Congress... APIC...

But right now there is a battle to be waged on the CRA and I intend to wage it. One of those battles is to reestablish the truth on matters related to the CRA, since the truth has been a causalty of Senator Gramm's constant misstatements in this area.

Senator Gramm has stated, incorrectly, that, "We do know that the default rate on CRA loans is about six times the default rate on loans in general."

That's just flat-out wrong. No less a source than Alan Greenspan has stated that CRA loans "perform with respect to payment as well as" other loans. This finding is backed up by the experience of industry leaders such as Bank of America, PNC Bank, and NatWest, all of which assert that the performance of their CRA loan portfolios are comparable to their general portfolios. Now watch this: according to the CEO of American Savings Bank, "Lending in the inner city has turned out to be the most profitable part of our business in recent years."

Let's continue with Senator Gramm's misstatements:

To justify his attempt to eliminate the CRA for smaller, rural banks, Senator Gramm has stated, incorrectly, that, "only 3 small banks and s & ls have been deemed out of CRA compliance in the past nine years."

Wrong, again. Try 400—that's the number of these banks found to have been in noncompliance, according to data from the regulatory agencies. That's a full 10 percent of the banks that his legislation would exempt from the CRA. Watch out, rural America.

Here's one more:

Senator Gramm, in an attempt to establish a rationale for cutting back on the opportunity for public comment at the time of mergers, has stated, incorrectly, that "banks that have exemplary records in community lending and that have received the highest ratings on CRA are routinely shaken down every time they want to establish a branch, every time they want to start a new bank, every time they want to engage in a merger."

Wrong, again and again and again. Since the enactment of the CRA, bank regalatory agencies have processed more than 86,000 applications with only 657 applications receiving adverse comments—less than 1%!

Time does not permit me to continue down this path. But Senator Gramm--let's get it right; too much is at stake.

We live during an amazing time,

It is a time of budget surpluses.

It is a time when we can afford to be generous.

It is a time when we can invest in the future of all Americans.

It is a time when we must avoid the pitfalls of selfishness, greed, and monopoly values.

It is a time to reflect on how those values that arise from our democratic sensibilities and faith traditions should inform our national character.

The operation of free markets is a wondrous and mighty thing. As an efficient allocator of goods and services, as a clearinghouse for supply and demand and prices, it has no equal.

But the market has no opinion on the underlying distribution of income and wealth in a society.

The market doesn't care if go to school in decrepit buildings. It has no opinion.

The market doesn't care if 45 million Americans go to bed every night without health insurance. It has no opinion.

The market doesn't care if, in an economy brimming with capital, large segments of the American economy are effectively redlined and unable to secure capital for business start-ups. It has no opinion.

The market doesn't care if the shows our children watch on television are filled with violence and sex and racial stereotyping. It has no opinion.

But while the market may not care, democratic societies do care. They must care. Because the essence of democracy is a belief in the innate value of each and every citizen.

And while the market may not care, people from just about every faith tradition do care. They must care. Because lying at the core of nearly every faith is a call to be other-centered, not self-centered; an ethic that is certainly at the core of Christian teaching:

As Christians we judge character by how we treat the least of these.

And as democrats, with a little d, we judge character by whether we live up to the abiding principles of democratic government:

Equal protection under the law
Equal opportunity
Equal access
Fair share

It is essential that in our drive to generate wealth that that drive be tempered by the sensibilities of our democratic instinct and the moral lessons of our faith.

What makes this country great is that fellow at the furniture coop somewhere out there, unheralded, unremarked, who has moved from welfare to work, who is running a business of his own, who has overcome obstacles unfathomable to the investment bankers on Wall Street, and is living the American dream.

I want more businessmen like him. I want a rebirth of democratic entrepreneurship. I want capital to begin flowing to all the people who have such heart, such energy, and such smarts. People who live in Appalachia. And people who live on the south and west sides of Chicago.

I say to you that the guy who runs the furniture coop is every bit as much a businessman as the partner at Goldman Sachs;

I say to you that the woman who weaves baskets and sells them to tourists who come into eastern Kentucky is every bit as much a businesswoman as

the corporate attorney who goes to work on the 80th floor of the Sears Tower;

I say to you that the fellow who fixes cars, motorcycles, and boat engines down on Chicago's South Side is every bit as much a businessman as the CEO who sells his company and then bails out with a golden parachute—

Let's put investment capital to work in a way that promotes the economic interests of all Americans.

Today, as we celebrate the extraordinary run up of the stock market, let us remember the 60% of American households that own no stock at all.

I say that the key to spreading the good life throughout all America is to turn that remaining 60% into shareholders, business owners, full partners in the free enterprise system.

Let's turn America, truly, into a nation of stockholders, wealth builders, job creators, where the colors of the faces of the entrepreneurs match the colors of the American rainbow.

This is how we build a new democracy. This is how we spread the promise of free enterprise to all Americans. And that's why the CRA is so absolutely essential.

This is how we start to dream again... the real dream... the true American dream. The dream that people who get up every day, work one job, maybe two, who live paycheck to paycheck, may also someday have a nest egg of their own

I thank all of you in this room who get up every day and do the hard work to make this dream a reality.
Keep hope alive! Keep the CRA alive!

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Divider Title: 14 _____

The Community Reinvestment Act: Working for America's Communities

January 11, 2000

The Community Reinvestment Act (CRA): A Documented Success

- Congress enacted CRA in 1977 to encourage banks and thrifts to help meet the needs of their entire communities, consistent with safe and sound banking practices.

- CRA is working to restore healthy markets in distressed communities, to extend home ownership opportunities, and to help grow small businesses and create jobs.

Under CRA, home mortgage lending and home ownership have increased.

- Between 1993 and 1998, the number of home loans extended to low- to moderate-income borrowers grew by 64%. The number of home purchase loans extended to middle-income and upper-income borrowers grew by 42% and 37% respectively.[1]

- In that same time period, the number of home purchase loans to African Americans increase by 72%; loans to Hispanics by 87%; loans to Native Americans by 52%; and loans to Whites by 31% .

- Between the same years -- 1993 and 1998 -- the increase in home purchase loans in low to-moderate-income areas exceeded the increase in home purchase loans in middle- and upper-income areas. In low- to moderate-income areas, home purchase loans increased by 60.5%, compared to loan increases of 47.1% in middle-income areas, and loan increases of 49.6% in upper-income areas.

- Between 1997 and 1998 alone, the number of home loans extended to low- to moderate-income borrowers increased by 19%, to African Americans by 9%, to Hispanics by 16%, and to Native Americans by 21%, and to Whites and Asians combined by 13%.

- As of 1998, the homeownership rate for African Americans reached 45.6% and the homeownership rate for Hispanics reached 44.7%.[2]

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[1] Federal Financial Institutions Examination Council, 1998. (subsequent bullets from same source)

[2] U.S. Department of Commerce, Census Bureau, *Housing Vacancies and Homeownership Annual Statistics: 1998.*

Under CRA, small business lending is rising.

- Banks and thrifts subject to CRA's reporting requirements made 2.6 million small business loans totaling $161 billion in 1998. $33 billion in small business loans were made to low- and moderate-income areas.

Under CRA, community development lending and investment is booming.

- Banks made $16 billion in community development loans and investments in 1997.
- In the six year period, from 1993 through 1998, national banks invested seven times as much in real dollar terms, in community development as they did in the previous twenty-eight years.[3]
- Since the inception of CRA in 1977, banks and thrifts have made $1.051 trillion in loan pledges to low-income areas, with over 95% of the total pledged in the past six years.[4]

Research Confirms: CRA is Expanding Lending in Low and Moderate Income Communities.

- Evanoff and Segal's study of mortgage lending in lower-income areas between 1991 and 1996 found "overwhelmingly statistically significant" evidence that an increase in mortgage loan originations to low- and moderate-income neighborhoods was attributable to CRA.
- Federal Reserve Governor Edward Gramlich has said: "There seems to be little doubt that most of these outcomes would not have occurred in the absence of CRA and other fair lending laws."[5]
- The LaCour-Little study cited by Gramlich found that at least half of the loans made to low-income individuals in low-income census tracts would not have been made without CRA if standard credit-scoring was the only screening criterion. [6]
- A Federal Reserve study found that recent consolidation among banking organizations has not reduced home mortgage lending to lower-income and minority borrowers and neighborhoods.[7] In fact, consolidated organizations increased their proportion of loans going to lower-income and minority borrowers by more than institutions not involved in consolidations. The study notes that "these results are consistent with the view that CRA has been effective in encouraging banking organizations, particularly those involved in consolidation, to serve lower-income and minority borrowers and neighborhoods." The study also notes that banks may have become aware of newly perceived profit opportunities and may have determined that increased lending to targeted areas would serve their long-term interest in community stability as well.

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[3] Office of the Comptroller of the Currency, data 1999.

[4] National Community Reinvestment Coalition, *CRA Dollar Commitments Since 1977*, 12/98.

[5] Edward M. Gramlich, "Examining Community Reinvestment," remarks at Widener University, 11/6/98.

[6] Cited by Gramlich, op cit.; Michael LaCour-Little, unpublished paper, 5/98.

[7] Avery, Bostic, Calem, and Canner, 1999.

- According to the 1998 Federal Reserve Board's *Report to the Congress on the Availability of Credit to Small Businesses*, CRA enabled bankers to identify opportunities and redesign products to increase small business lending.

CRA Loans: Sound and Profitable

CRA lending has been expanded consistent with safe and sound banking practices. Banks report strong performance of loans in the low- to moderate-income housing market.

- For example, BankBoston lent $140 million to low- and moderate-income borrowers and found performance to be no different than in its regular mortgage portfolio.[8]

- According to Federal Reserve Chairman Alan Greenspan, "there is little or no evidence that banks' safety and soundness have been compromised by [CRA] lending and bankers often report sound business opportunities."[9]

- A 1997 Federal Reserve study examining the net operating income of commercial banks that vary in the extent to which they provide home loans to lower-income borrowers or in lower-income neighborhoods, found that banks that are active lenders in these markets do not have any lower profitability than other mortgage-oriented commercial banks.[10]

- A 1996 survey of large financial institutions active in home lending in metropolitan areas found that 98 percent said that CRA lending was profitable and credit risk manageable.[11]

- A Bear Stearns study found that CRA home loans had low prepayment risk for investors, and borrower credit scores consistent with conventional financing guidelines. [12]

- Statistical analysis did not find any notable relationship between bank profitability and thelevel of lower-income mortgage lending. [13]

- Former Federal Reserve Board Governor Lawrence Lindsey has said: "The CRA has helped stimulate loans for home mortgage, housing construction and rehabilitation, and small and minority business development in low- and moderate-income communities ... without sacrificing safety and soundness."[14]

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[8] "Success in Community Development Lending," The Federal Reserve Bank of Philadelphia, 1993.

[9] Los Angeles, California, January, 1998.

[10] Canner and Passmore, 1997.

[11] Meeker and Myers, 1996.

[12] Bear Stearns, "Securities Backed by CRA Loans," 10/2/97.

[13] Avery, Bostic, Calem, and Canner, 1996.

[14] Statement to Congress, 3/8/95.

CRA: Vital to Overcoming Continued Barriers to Capital

The economic literature points out that market imperfections in the supply of credit persist, highlighting the continuing importance of CRA for both the business and home mortgage markets. For example, uncertainties or the lack of information may lead to missed opportunities for profitable lending in low-income or minority communities.[15] Altering the strategic incentives of lenders through CRA can induce profitable entry and increase efficiency. Especially for institutions that do not have prior experience in these markets, assessing the creditworthiness of these borrowers may be relatively difficult. These arguments are born out by banks' experience, cited in the studies above, that profitable loans can be made in communities that had previously been overlooked.

Ongoing Barriers to Business Credit

- In 1997, the loan-to-business ratio in upper-income areas was roughly 40% greater than the ratio in low-income areas.[16]

- In 1992, minority enterprises represented a small share of the business community, accounting for just 11.4% of all firms and 6% of business receipts despite the fact that minorities were 25% of the population. While African-Americans accounted for approximately 12% of the population, African American-owned businesses represented 3.6% of businesses and accounted for just 1% of all business receipts.

- Controlling for net worth, education, age, and other factors, African Americans get smaller bank loans than whites with identical traits: African-Americans received $0.92 in loans for a dollar of equity, while whites received $1.17. [17]

- According to a recent study, the likelihood of loan denial is 26% higher for African American business owners than for white-owned firms with similar characteristics.[18]

Ongoing Barriers to Mortgage Credit

- In the Munnell study, after controlling for wealth, credit histories, loan-to-value ratios, and other factors, a significant gap between white and minority rejection rates remained. African American and Hispanic applicants in Boston faced a probability of denial 8 percentage points higher than that facing white applicants with the same economic characteristics.[19] Other studies confirm that housing discrimination still exists.[20]

- Carr and Megbolugbe, in 1993, used adjusted data from Munnell's study in addition to supplementary information on credit risk, and found clear statistical evidence of differential

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[15] Beshouri and Glennon (1996) and Calomiris et al (1994)

[16] Federal Financial Institutions Examination Council, 1998.

[17] Bates (1991, 1997)

[18] Blanchflower, Levine, and Zimmerman, 1998 (using 1993 National Survey of Small Business Finances).

[19] Munnell et al.

[20] See, e.g., Avery, Beeson, and Sniderman (1996); Ladd (1998); and Yinger (1996, 1998).

treatment, with minorities receiving systematically lower credit ratings.

- A 1996 study found evidence of discrimination based on the applicants' race, even after controlling for economic and personal variables, and noted that neighborhood racial composition is highly correlated with the race of the applicant.[21]

- A 1991 study by Federal Reserve economists Canner, Gabriel, and Woolley concluded that minority applicants with the same demographic and economic characteristics as whites are approximately 3/5 as likely to get a conventional loan, while white applicants with the same characteristics as minorities are 2-1/2 times as likely to obtain such loans.

[21]Tootell (1996)

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Divider Title: 15 _____

Tentative Agreement on Financial Modernization Bill Draft
Provisions Dealing with Community Reinvestment

I. The bill fully retains existing CRA obligations of insured depository institutions.

II. Requires a "Satisfactory" CRA rating to expand in new lines of business – The bill directs the regulators to prohibit a financial holding company or an insured depository from commencing a new activity, directly or indirectly, or acquiring or merging with a company in the newly authorized lines of business unless all of the subsidiary or affiliate banks have at least a "Satisfactory" rating on their last CRA exam. This requirement applies each and every time the bank or holding company enters these new lines of business.

- This is a flat prohibition. Any violation would be subject to the full range of penalties available to bank regulators for noncompliance, including cease and desist orders, civil money penalties, removal of officers and directors, and divestiture.

- This is an ongoing requirement. The bank or holding company is bound by the same requirements concerning each and every future expansion. That is, if the bank or its holding company fails to maintain a satisfactory record under CRA it is prohibited from commencing a new activity, directly or indirectly, acquiring or merging with a company in these newly authorized lines of business until all of its insured depository institutions have achieved at least a satisfactory CRA rating.

- This preserves the structural integrity of CRA which is currently enforced through the application process for bank mergers with and acquisitions of other banks, and extends it to insured depository institutions and their holding companies engaging in these new activities.

- Under current law, CRA enforcement applies at the time of bank or holding company acquisitions or mergers *only with other banks*. Today, a bank may acquire or become engaged in insurance and securities activities to the limited extent permitted without any consideration of its CRA record at all.

III. Disclosure of CRA Agreements – The bill requires the disclosure of the full text of agreements between banks and community groups made pursuant to, or in connection with the fulfillment of the Community Reinvestment Act of 1977, with the following limitations:

Scope: The provision excludes several types of agreements: First, it excludes agreements (or sum of agreements over a 12-month period) that provide grants or consideration to the other party less than $10,000 annually, or for loans to the other party less than $50,000 annually. Second, it excludes agreements that do not "materially impact" the regulator's decision to approve or disapprove an application subject to review

under CRA, or to assign a CRA rating in an examination. Third, it excludes any agreement with a group or person who has not commented on, testified about, or discussed with, or otherwise contacted the institution concerning CRA. Fourth, it excludes any individual mortgage (regardless of its interest rate), and any market-rate loan of any type, where the purpose of loan does not include re-lending. Fifth, it allows the Federal Reserve Board to provide for further appropriate exemptions.

Reporting: Both the bank and the community group must report annually on their performance under the terms of the agreement. The community group may meet this reporting requirement by filing with the bank, and the bank will then pass this information on to the regulator. This report must include a list of how funds were spent. The legislation directs the regulators to provide for procedures to allow any community group that is a party to a large number of agreements covered under this section to a make a single or consolidated filing with the bank or regulator.

The Managers' Report includes the following language:

The Federal banking agencies are directed, in implementing regulations under this section, to minimize the regulatory burden on reporting parties. One way in which to accomplish this goal would be wherever possible and appropriate with the purposes of this section, to make use of existing reporting and auditing requirements and practices of reporting parties, and thus avoid unnecessary duplication of effort. The Managers intend that, in issuing regulations under this section, the appropriate federal supervisory agency may provide that the nongovernmental entity or person that is not an insured depository institution may, where appropriate and in keeping with the provisions of this section, fulfill the requirements of subsection (c) by the submission of its annual audited financial statement or its federal income tax return.

Violations:

- If an insured depository institution fails to comply with the disclosure and reporting requirements of this section, it is a violation of the Federal Deposit Insurance Act which provides for penalties including fines up to $1 million per day.

- If the community group, after a having been given notice and reasonable opportunity to comply with this disclosure and reporting requirement, willfully fails to comply in a material way, the agreement is unenforceable.

- If an individual diverts funds contrary to the purposes of the agreement for personal financial gain, that individual may be subject (at the regulator's discretion) to mandatory repayment of misappropriated funds and a prohibition from participating in CRA agreements for up to 10 years. Such penalties do not apply to the community group, only to the offending individual.

- Inadvertent or de minimus errors are not subject to any penalties.

- Nothing in this section would limit applicable civil or criminal law.

IV. **Small Bank CRA Examinations** – The time period between routine CRA examinations for banks with more than $250 million in assets is not affected by this provision.

- For banks under $250 million in assets, both urban and rural, the bill extends the time period between routine examinations for those banks with an "outstanding" CRA rating to every 5 years. Banks with a "satisfactory" CRA rating would be examined routinely every 4 years. The bill does not prescribe how often regulators examine banks with less than satisfactory records. This is left to the regulator's discretion. Regulators currently review banks with less than satisfactory ratings every 6 to 18 months.

- Nothing in this provision would affect examinations in connection with bank applications. As under current law, CRA applications would occur when a banking organization seeks to acquire or merge with another bank.

- Regulators retain the authority to examine any bank, regardless of its CRA rating or the time periods for routine examinations provided above, at any time, for reasonable cause.

V. **Wholesale Financial Institution (WFIs)** – The bill does not authorize the creation of WFIs by any entity.

VI. **CRA Study** – The bill authorizes two studies of CRA:

- The Federal Reserve Board will conduct a study of the default rates, delinquency rates and profitability of loans made under the CRA.

- The Treasury Department will conduct a study of the extent to which adequate services are being provided as intended by the CRA.

VII. **Protection of CRA** -- The bill provides that nothing in the Act shall be construed to repeal any provision of the CRA.

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Divider Title: 16 _____

FINANCIAL SERVICES MODERNIZATION FOR THE 21ST CENTURY: LOWERING CONSUMER COSTS, BUILDING COMMUNITIES, AND BOOSTING COMPETITIVENESS
November 12, 1999

President Clinton today will sign historic legislation to modernize our banking and finance laws. For the first time, financial firms will be able to offer a full range of banking, securities, and insurance products, stimulating greater innovation and competition. This legislation will have the following benefits:

- ✓ Consumers and businesses small and large will have greater choice, more innovative services, and the possibility of one-stop shopping for financial products.
- ✓ Prices will be lower as a result of increased competition. Americans spent $367 billion in 1997 on fees and commissions for brokerage, insurance and banking services. If deregulation in other industries is any guide, it is reasonable to expect that increased competition will yield lower prices and billions in savings for American consumers.
- ✓ American financial institutions will be more efficient and thus better able to compete in the global marketplace.
- ✓ Low- and moderate-income communities will receive new loans and investment spurred by a preserved and strengthened Community Reinvestment Act (CRA).
- ✓ Individual privacy will be better protected by new limitations on the sharing of personal financial information.
- ✓ The economy will grow stronger as competition lowers the cost of capital for American businesses -- spurring growth.

UPDATING THE LAWS GOVERNING FINANCIAL SERVICES FOR THE NEW ECONOMY

Technological change is revolutionizing how financial products are delivered to consumers and how firms manage financial risks. But our financial services firms are still governed by depression-era laws that limit competition and place unnecessary barriers between banks, securities firms, and insurance companies. This new legislation will:

- ✓ Repeal the 1933 Glass-Steagall Act, which has separated banks from other financial firms, and other laws separating banking and insurance;
- ✓ Permit the creation of new, more efficient financial holding companies, which can offer banking, insurance, securities, and other financial products to consumers;
- ✓ Allow banks to choose the corporate structure for many new activities that best meets their customers' needs – either a financial subsidiary or a bank holding company affiliate;
- ✓ Regulate banking, securities, and insurance activities along functional lines, with each activity overseen by the regulators that know them best;
- ✓ Protect the safety and soundness of our banking system by requiring that non-banking activities be conducted separately within an organization, subject to funding limitations; and
- ✓ Maintain the separation of banking and commercial activities, so that loans are made on merit, not relationship, avoiding risks that have caused trouble for some banking systems around the world.

PRESERVING AND STRENGTHENING THE COMMUNITY REINVESTMENT ACT

President Clinton insisted that the legislation not weaken CRA or allow banks with an unsatisfactory CRA record to take advantage of the new powers authorized.

- ✓ The bill establishes an important prospective principle: banking organizations seeking to conduct new non-banking activities, or to merge with or acquire a firm engaged in such activities, must demonstrate a satisfactory record of meeting the credit needs of all the communities that they serve.
- ✓ Each and every time a bank or holding company commences a new activity, such as securities, insurance underwriting, or merchant banking, or acquires a company in these new areas, all of its banks and thrifts must have a satisfactory CRA rating. **Thousands of transactions involving securities activities and other non-banking activities, previously exempt from CRA, will now be covered.**
- ✓ CRA continues to apply as it has to all banks and thrifts, without exception; existing procedures for public comment on applications to acquire or merge with banks or thrifts remain in effect.
- ✓ The CRA examination cycle for small banks and thrifts with outstanding or satisfactory ratings is extended, but the bill preserves the ability to regulators to examine at any time for reasonable cause or in connection with an application.
- ✓ Harmful exemptions from CRA were eliminated in conference, as was a provision that would have blocked community comments on most bank's CRA applications.
- ✓ To spur community investment, the bill also authorizes a new program, known as PRIME, to provide technical assistance to low- and moderate-income micro-entrepreneurs.

NEW FINANCIAL PRIVACY AND OTHER CONSUMER PROTECTIONS

Under current law, a financial institution can share with or sell to anyone, including telemarketers and nonfinancial firms, information on everything from account balances to credit card transactions, without a customer's knowledge or consent. On May 4th, President Clinton proposed strong and enforceable Federal privacy protections for consumers' financial information. The bill includes a number of these provisions.

- ✓ Financial institutions must clearly disclose their privacy polices up front and annually, allowing consumers to make informed choices about privacy protection. Consumers will know if their bank, insurance, or securities firm intends to share or sell their financial data, within the corporate family or to third parties.
- ✓ Consumers will be able to "opt-out" of information sharing with unaffiliated third parties.
- ✓ These restrictions have teeth. Regulators have full authority to enforce these protections and new rulemaking authority under existing Fair Credit Reporting Act requirements.
- ✓ New penalties are available to prevent pretext calling – when someone uses trickery or impersonation to discover the consumer's financial assets.

These protections represent an important step forward, but they are not enough. Legislation that the President is signing today requires the Treasury to study the privacy practices of the financial services industry and recommend further legislative steps.

- ✓ President Clinton will today direct the National Economic Council to work with the Treasury and OMB to complete a legislative proposal by early next year. He is committed to ensuring that consumers have choices about how their financial information is shared between different affiliated companies.

The bill includes other important consumer protections.

- ✓ Banking agencies are directed to adopt consumer protections to govern bank sales of insurance products, including: clear and conspicuous disclosure that insurance is not FDIC-insured; prohibitions on tying credit to insurance products; and other protections against coercive sales practices. Consumer protections for bank sale of securities products are also strengthened.
- ✓ Important State consumer protection laws governing insurance sales are preserved.
- ✓ Banks are required to make full and conspicuous disclosure of fees on ATM machines.

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Divider Title: 17 _____

GUIDANCE ON FINANCIAL MODERNIZATION
November 3, 1999

Q: The Senate may vote as early as today on the Financial Modernization conference report. The House will vote tomorrow. Are you urging Democrats to support the bill? Are you satisfied with the bill's provisions on community reinvestment and privacy? How do you respond to community groups and privacy advocates (and the NYTs editorial) that suggest that you sold short and accepted harmful compromises on Community Reinvestment and Privacy?

A: General

Yes, I am urging all members of the Congress to support the legislation. I believe that the conference report will:

- bring lower costs, more choices, and better protections for consumers;
- promote continued investment in America's communities; and
- provide new opportunities for our financial institutions to compete in the global marketplace.

If we fail to enact this bill now, banks will merge with insurance and securities firms without any consideration of their CRA record and without any privacy protections for consumer financial information. We need to seize this historic moment.

But we will not rest. We will continue to press for even greater privacy protections -- especially effective choice about whether personal financial information can be shared with affiliated companies. There also are other, consumer protection issues that we may need to address quickly, including whether mutual insurance companies are able to avoid state law protections for their policyholders.

CRA

On the CRA issue, I was prepared to veto the legislation if it failed to establish an important new prospective principle: banking organizations seeking to use new non-banking powers must meet their CRA obligations. The conferees met our demands. As a result, thousands of cases where banks want to get involved in securities and insurance activities, previously exempt from CRA review, will for the first time be covered.

We also fought to eliminate wholly unacceptable measures that would have weakened CRA and dramatically narrowed other objectionable provisions. Over the last week, we also reached agreement on legislative history that will help to ensure that the sunshine provisions are interpreted in a way that prevents undue burdens on the community groups.

I want to stop to take a moment to be clear about one thing: I have enormous respect and gratitude for the community groups throughout this country that work to spur new investment in our underserved communities. These organizations have helped banks to meet their community reinvestment obligations by finding the profitable business opportunities that exist for them in their own communities.

Consumer Protections and Privacy

Regarding privacy, compare what's in this bill to the status quo. Today, much of Americans' personal financial data is freely shared and sold. Mergers between large banks and insurance and securities firms happen every day without ANY limitations on the sharing of information between those firms. If this bill is blocked, sharing will continue without the protections this bill provides.

The Senate bill had no privacy protections and the House bill did not go far enough. We accomplished much in getting additional protection beyond the House bill. This is a good first step, but we must not rest. We will continue to press for even greater privacy protections -- especially effective choice about whether personal financial information can be shared with affiliated companies

Background: On May 4th, you proposed that Congress provide consumers both notice and choice before their information was shared with anyone. The bill provides notice before information can be shared with affiliates or third parties, but provides consumers a chance to opt-out only before information is shared with third parties. There is no choice about information sharing with affiliated firms. Banks told us that they would bring down the bill over that. Given where we started, this is an achievement; but clearly it leaves important gaps unfilled.

Q: How do you respond to those who argue that, by removing the barriers to bank integration with securities and insurance, we risk another savings and loan crisis or a run of bank failures like in the depression?

A: Much has changed since the Depression and the original passage of the Glass-Steagall law that this bill would revise, most notably, passage of the securities laws, creation of the SEC, active regulatory and enforcement activities by that agency, similar state legislation and regulation of insurance underwriting and sales, and stronger bank regulation. This "functional regulation" is preserved and strengthened by this bill.

Moreover, the legislation puts in place effective "firewalls" between banks and their securities and insurance affiliates and subsidiaries.

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The New Community Reinvestment Act Regulations:
An Expanded Opportunity for SBICs

By
Christopher Lane Davis
August 15, 1997
Revised as of February 2, 1998

Introduction

Beginning July 1, 1997, the new joint rule under the Community Reinvestment Act (the "CRA") effectively requires large banks[1] to have a program of ongoing qualified investment activity in their communities in order to meet their obligations under CRA.[2]

The new CRA regulations present banks with a continuing need to make investments that qualify for CRA purposes, that are permissible under the Glass-Steagall Act and related regulations, and that provide a profitable return consistent (at a minimum) with the safe and sound operations of the bank.

Investment in an SBIC gives a bank the opportunity to accomplish all three of these objectives. An investment in an SBIC operating in a bank's community, state or region is specifically identified in the new joint rule as a qualified investment for CRA purposes.[3] Likewise, Federal law explicitly permits banks to invest in and own SBICs.[4] Finally, the banking industry has substantial experience with the investment results of existing bank-affiliated SBICs, which have demonstrated historically that an SBIC can provide a return on invested capital consistent with (or in many cases higher than) the return on the capital employed by a bank in its principal lines of business.[5]

The CRA benefits of an investment in an SBIC apply to investments in independently managed leveraged SBICs as well as investments in subsidiary or affiliated SBICs. The need banks now face for a continuing program of qualified investments, and the advantages that SBICs present as a means to address this need, provide the potential for substantial new opportunities for the SBIC industry.

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The Community Reinvestment Act

The CRA. In 1977, Congress enacted the Community Reinvestment Act to encourage banks to help meet the credit needs of the local communities in which they operate.[6] To implement the CRA, each of the four federal bank regulatory agencies (the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision) promulgated regulations.[7]

The CRA Regulations. The CRA regulations established the framework and criteria that each agency uses to evaluate a bank's performance in meeting the credit needs of its local community. Banks are examined on a regular basis by their regulating agencies to assess how well the bank's activity has met the credit needs of its local community, as measured by the regulatory tests established in the CRA regulations.[8] The agencies numerically grade each bank's performance in specified areas and the combined grades determine the bank's overall CRA performance rating. The agency evaluation of a bank's CRA performance is a public document, and is required to include both the agency's assessment of the bank's performance under each assessment factor, and the overall CRA rating.[9]

Regulatory Compliance. The CRA regulations do not permit the issuing regulatory agencies to require banks to achieve any specified CRA performance rating.[10] Banks are strongly motivated to achieve high ratings, however, because the agencies are expressly authorized to take a bank's CRA performance into account when reviewing an application by the bank for approval of an activity relating to deposit-taking facilities (e.g., acquisitions, new branches, and the like).[11] Historically, the bank regulatory agencies have made it clear that the quality of a bank's CRA performance can have a significant impact, both positive and negative, on obtaining regulatory approvals desired by the bank, making CRA performance important to the overall operations of the bank.[12] A bank's CRA rating can also have effects beyond the CRA regulations, for example Federal Housing Finance Board regulations restrict long terms advances by Federal Home Loan Banks to a member bank unless the member bank has at least a "Satisfactory" CRA rating.[13] For many banks, an "Outstanding" CRA rating is also an important aspect of the bank's corporate image of quality and industry leadership, and has an importance that extends beyond the bank's relationship with its regulating agency.

The New CRA Regulations

The New Joint Rule. Beginning in 1993, all four federal regulatory agencies began a collective effort to develop new joint CRA regulations.[14] This effort culminated in the promulgation of a joint rule by all four agencies on May 4, 1995.[15] The new joint rule replaces the previous CRA regulations in their entirety. The new regulations were phased in over a two year period, from July 1, 1995, to July 1, 1997, when all provisions of the new regulation went into effect.[16]

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Scope. The new rule effectively applies to all banks in the U.S.[17] There are limited exceptions for "special purpose" banks (such as "banker's banks" and banks that provide only cash management controlled disbursement services, correspondent banking services, trust company services, or clearing agent services) and for certain types of uninsured banks.[18] There are also special provisions for "small banks."[19] The rules specifically apply, however, to limited purpose banks, wholesale banks, and insured Federal or state branches of foreign banks.[20]

The Credit Needs of the Community. The new joint rule generally provides that each agency will base a bank's CRA rating on an evaluation of the bank's performance record in meeting the credit needs of its community.[21] The concept of a community's credit needs in the new rule explicitly incorporates the concept of community development. Community development under the regulations refers to an activity that relates to any one of four general areas: affordable housing for low- and moderate-income people, community services targeted to low- and moderate-income people, revitalizing or stabilizing low- or moderate-income communities[22], and promoting economic development through providing financing to small businesses and farms that meet specified size standards.[23]

The Definition of a Bank's Community. The rule requires a bank to specify the geographic area that it considers to be the community in which the bank operates.[24] This defined community is referred to as the "assessment area."[25] In general, a bank's assessment area is defined in terms of the consolidated metropolitan statistical areas or other political subdivisions within which the bank's headquarters, branches and deposit-taking ATM machines are located, as well as any contiguous surrounding areas in which the bank originated or purchased a substantial portion of its loans.[26]

Evaluating a Bank's CRA Performance. The agency rates a bank on the basis of its performance, in its "assessment area," in each of three performance categories: lending, service, and investment.[27] In determining the CRA rating, a bank's performance in each of the three areas is scored separately.[28] The bank's combined performance in all three categories determines the bank's overall CRA rating.[29] A bank's overall CRA performance is rated as "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance."[30] As discussed above, the regulating agency's assessment of the bank's performance under each test, and the CRA rating which is assigned, is provided in a written report by the regulating agency and is available to the public.[31]

Investment and CRA Performance Ratings. Lending is substantially the most important category in determining a bank's overall CRA rating, however, the new rule is intentionally structured so that satisfactory performance in all three areas is important to the overall rating. The performance scoring system in the joint rule is discussed in the preface to the joint final rule in the adopting release, which describes the specific intention of the agencies to require that even if a bank had the maximum score in both lending and one of the other two areas, at least a "low satisfactory" performance rating in the third area is necessary for the bank to receive an overall rating of "Outstanding."[32]

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The New Emphasis on Investment Activity

Effective Date for the Investment Test. Effective as of July 1, 1997, a bank's investment activity will be one of the three types of activity that will be evaluated by the regulating agencies to determine a bank's CRA rating.[33] The new regulations require the regulating agencies to evaluate a bank's record of helping meet the credit needs of its assessment area through qualified investments that benefit its assessment area or a broader statewide or regional area that includes the bank's assessment area(s).[34]

Criteria for Evaluating Investments. The rule provides four specific criteria to be used in evaluating a bank's CRA investment performance: the dollar amount of qualified investments, the innovativeness or complexity of the investments, the responsiveness of the investments to credit and community development needs, and the degree to which such investments are not routinely made by private investors.[35] In addition, the joint rule specifically provides that activities considered for purposes of evaluating lending and service performance may not be considered when evaluating investment performance.[36] These criteria have a significantly greater quantitative component than the old CRA regulations, and they require a bank to focus specifically on its investment activity as distinct from lending and other banking activities.

Qualified Investments. To facilitate bank CRA performance, the joint rule provides a new definition of "qualified investments." The release elaborates this definition, by providing specific examples of financial activities that will be considered qualified investments under the rule.[37] The joint rule defines qualified investments as lawful investments that have as their primary purpose community development, as defined in the rule.[38]

The Definition of Community Development Investments. The definition of "community development" in the joint rule specifically identifies four target areas for qualified investment.[39] Three of these four areas reflect traditional concepts of community development activity: affordable housing and community services for low- and moderate-income people, and activities which "revitalize or stabilize" low- and moderate-income communities. The fourth area is new: "activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs . . ."[40]

Investments in Businesses Qualify Under CRA. The explicit inclusion of "financing businesses and farms" as a qualified investment activity is a significant change from the much vaguer language regarding community development in the old regulations. The new rule expressly recognizes investments (distinct from loans) by banks in businesses and farms as a qualified CRA activity. In addition, the language of the new rule provides a bank with well understood standards for evaluating whether an investment will qualify for CRA performance, and should facilitate CRA-oriented investment activity by banks.[41]

Interpretive Limitations on Investments in Businesses. Although the language of the new regulations does not distinguish between "financing businesses and farms" and the other

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types of activity listed in the definition of "community development," the b
agencies have interpreted the regulation to require that even if a business
standards set forth in the definition, it must additionally meet one of the other crite
definition in order to be considered a "qualified investment."[42] Unlike the othe
appear to be individually sufficient, meeting the size criteria alone is not suffi
business to be considered a "qualified investment."

The Opportunity for SBICs

SBICs are Qualified Investments. Of particular significance, both to the SBIC industry and banks, the preface to the final joint rule in the adopting release explicitly states that an investment by a bank in an SBIC will be considered a qualified investment for CRA purposes.[43] The specific identification of SBICs as qualified investments creates, in effect, a "safe harbor" for these investments.[44] This is a significant departure from the situation under the old CRA regulations, because the release for the new joint rule clearly contemplates that it is the investment by the bank in the SBIC itself that is considered for CRA purposes, not the underlying portfolio investments subsequently made by the SBIC.[45]

Investments Made by SBICs are "Presumed" to be for Community Development. In a series of interpretive letters, the bank regulatory agencies have stated that bank examiners will "presume" that an investment in an SBIC promotes economic development and meets the standard for a "qualified investment."[46] This creates an important distinction between an SBIC and any non-SBIC fund for a potential bank investor. An investment in an SBIC will be presumed by examiners to be a qualified investment, but in the case of any other fund the examiners will specifically evaluate whether the primary purpose of the fund is to engage in activities which intended to revitalize or stabilize low- or moderate-income geographies.[47]

Independent and Bank-Affiliated SBICs. Investments in independent SBICs and affiliated SBICs are both considered qualified investments under the joint rule. The joint rule specifically permits a bank to receive credit for a qualified investment made by an affiliate (including a bank holding company parent), so long as no other bank is also claiming CRA credit for that investment.[48] The provisions of the joint rule which allow a bank to receive CRA credit for investments by affiliates allow a bank to take advantage of a broader range of investment opportunities than it could participate in directly.[49] This flexibility provides a bank that wishes to use the SBIC program as a means of addressing its CRA obligations with a wide range of alternatives in structuring and managing a qualified investment program.

Local, State, and Regional Investment. The investment test under the joint rule specifically permits consideration of qualified investments made in the bank's assessment area, in the state in which the assessment area is located or in a broader surrounding region which includes the assessment area.[50] Permitting a regional investment focus makes it easier for a bank to determine in advance whether a prospective SBIC will be an appropriate qualified investment. As a result, allowing an SBIC that has a regional focus to be considered a qualified investment makes SBICs much more attractive and practical for CRA oriented bank investors.[51]

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The Importance of Allowing a Regional Investment Focus. Recognizing regionally focused SBICs as qualified investments is an important step in aligning the regulations with the way SBICs actually need to operate in order to be economically viable investment operations. A broad geographic scope is important for the successful operation of most SBICs, since few individual assessment areas can provide sufficient deal flow to permit an SBIC to create a diversified portfolio of private investments.[52] In addition, because many SBICs (particularly independent SBICs) are formed as "blind pools" with a limited investment period (normally 2 to 3 years) it is rarely possible to predict whether a specific locality or community will generate potential investment opportunities for a particular SBIC.

Co-investment Opportunities. The joint rule also provides an incentive for banks to establish co-investing relationships with independent SBICs operating in the same region. The express incorporation of the SBA size standards in the joint rule as a test for qualified investments means that, in many cases, a company eligible for investment by an SBIC may also be a eligible as qualified investment for CRA purposes.[53] A significant difference between investing with an SBIC rather than in an SBIC is that the current interpretive letters suggest that the presumption available to SBICs is not available to other types of investors.[54] Thus, while an SBIC may be a good source of potential qualified investments that meet the SBIC size standards, as a direct investor a bank would still have to show that the investment met one of the other criteria for community development investments.

CRA Does Not Change Other Restrictions on Bank Investments. It is necessary to keep in mind, however, that neither the CRA nor the new joint rule change the existing statutory restrictions on the types of lawful investments which a bank, bank holding company or other affiliate may make. Any direct co-investment by a bank or bank holding company must comply with applicable banking statutes and regulations regarding ownership of securities in non-banking businesses.

Summary

The emphasis that the new joint rule places on qualified investment activity will cause many banks to seek to establish or expand their investment operations in order to maintain the CRA rating necessary for the smooth operation of their banking business. The identification of investment in SBICs as a means of satisfying a bank's CRA investment obligations provides SBICs raising private capital with an additional benefit to offer to prospective bank investors. For banks, investment in independent or affiliated SBICs can provide a means to structure and fund a program of qualified investments with reduced regulatory uncertainty, and without compromising the bank's expectations for the return on its capital.

Acknowledgments

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NOTES

[1]The discussion in this Memorandum focuses primarily on the application of the new interagency joint rule to larger banks, those institutions which do not fall under the definition of a "small bank" or a "small savings association" in the joint rule.

The provisions of the new joint rule relating to investment are less relevant for institutions defined as "small banks" under the joint rule (see Notes 19 and 29 below), and for thrift institutions with limited investment powers. Qualified investments in the form of loans can have some positive effects, however, as examiners may adjust a small bank's loan-to-deposit ratio, if appropriate, based on lending-related qualified investments (see 12 C.F.R. § 25.26(a)(1), and the discussion in footnote 4 in the interagency CRA interpretive letter designated as OCC Interpretive Letter 763, December 26, 1996).

The regulating agencies will also evaluate investment activity in the case of a small bank or thrift which wishes to obtain an "Outstanding" rating (see 12 C.F.R. § 25 Appendix A paragraph (d)(2) for "small banks," and 12 C.F.R. § 563e Appendix A paragraph (d)(2) for "small savings associations"). The importance of investment activity for a small bank or small savings association that wishes to obtain an "Outstanding" rating is also discussed in footnotes in two interagency CRA interpretive letters (see CRA Interpretations – footnote 2 in the letter designated as OCC Interpretive Letter 750, September 23, 1996, and footnote 4 in the letter designated as OCC Interpretive Letter 763, December 26, 1996).

[2]The Community Reinvestment Act requires the regulatory agencies to evaluate and publicly report on bank performance, but it does not authorize the regulating agencies to require banks to comply with performance standards or to impose sanctions on a bank which fail to meet performance standards. See Note 11 below.

Although failure to meet CRA performance standards does not expose a bank to regulatory sanctions, the Community Reinvestment Act expressly authorizes the agencies to make decisions on granting regulatory approval for certain important bank activities based on the CRA performance record of the bank. See Note 12 below.

[3]See the discussion under Notes 32 and 42 below.

[4]Bank ownership of SBICs is specifically authorized by Section 302(b) of the Small Business Investment Company Act (15 U.S.C. § 682(b)). The effect of this authorization under other banking laws is discussed in detail at 12 C.F.R. § 225.107.

[5]As of January 1, 1997, there were 69 regular SBICs that were classified by the SBA as "bank dominated" or "bank affiliated." These 69 SBICs had a total of $3,149,710,284 in private capital. (Regular SBICs are those organized under Section 301(c), and do not include Specialized SBICs organized under Section 301(d).) See SBIC Program Statistical Package, January 1997, Table 30.

The SBA statistics on weighted rate of return on invested capital for all regular SBICs (including SBICs not affiliated with banks) for the ten year period from 1987 - 1996 are as follows:

Year	Rate of Return	Year	Rate of Return
1987	13.93 %	1992	10.47 %
1988	12.89 %	1993	16.68 %
1989	8.32 %	1994	14.33 %
1990	12.95 %	1995	8.43 %
1991	3.53 %	1996	14.97 %

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See SBIC Program Statistical Package, January 1997, Table 18.

[6]The Community Reinvestment Act applies to all insured depository institutions (defined as "regulated financial institutions" in the statute). Note, however, that the Community Reinvestment Act does not apply to credit unions. See 12 U.S.C. §§ 2901 et seq. See also the discussion in Note 18 below.

[7]See 12 U.S.C. §§ 2901(b), 2902(1), and 2905.

[8]See 12 U.S.C. §§ 2903 and 2906.

[9]See 12 U.S.C. § 2906(b), and 12 C.F.R. § 25.43(a)(2).

To provide an illustration of the provisions of the new joint rule, this Memorandum will focus on the version of the joint rule promulgated by the Comptroller of the Currency: 12 C.F.R. Part 25, Subparts A through D and Appendices A and B. All citations to the joint rule will be to the version promulgated by the Comptroller of the Currency, unless otherwise indicated.

The parallel provisions of the joint rule relating to the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision are found in separate Parts of 12 C.F.R. The Comptroller of the Currency's regulations are in Part 25 (as indicated above), the Federal Reserve Board's regulations are in Part 228, the Federal Deposit Insurance Corporation's regulations are in Part 345, and the Office of Thrift Supervision's regulations are in Part 563e.

[10]The issuing regulatory agencies for the CRA regulations are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

See 12 U.S.C. §§ 2901(b) and 2903(2), and 12 C.F.R. § 25.29. As indicated in the May 4, 1995, release, the prior proposed versions of the rule provided that the regulatory agencies would have enforcement authority with respect to banks found to be in "Substantial Noncompliance," however those provisions were deleted from the final version of the joint rule. See discussion at 60 FR 22158 under "Enforcement Authority."

[11]See discussion at 60 FR 22170. Also see 12 C.F.R. § 25.29, which provides that a bank's record of CRA performance may be the basis for denying or conditioning approval of an application to establish a domestic branch, relocate a main office or a branch, participate in a merger or acquisition with another insured depository institution, or convert to a national bank.

[12]A "Satisfactory" CRA rating may be sufficient to avoid having a bank's CRA performance become a block to obtaining a requested regulatory approval. However, an "Outstanding" rating is still regarded as preferable. While an "Outstanding" rating is not a "safe harbor," it reduces the possibility that CRA performance will delay regulatory approval.

[13]Federal Housing Finance Board regulations restrict long term advances by Federal Home Loan Banks to a member bank unless the member bank has a "Satisfactory" CRA rating. See 12 C.F.R. § 936.5, effective June 1, 1997; promulgated on May 29, 1997, at 62 FR 28983 - 28991.

While the Federal Housing Finance Board regulation only requires an overall CRA rating of "Satisfactory," the impact of this regulation is quite broad. The twelve Federal Home Loan Banks comprising the Federal Home Loan Banking System had 6504 members, and had approximately $197,788 million of outstanding advances to members as of December 31, 1997. Of the total 6504 members of the Federal Home Loan Bank System, approximately 69.4% (or 4514 of the members) are commercial banks and approximately 26.8% (or 1742) are thrift institutions. (See Federal Home Loan Bank System Membership Report, December 1997)

[14]Proposed rules were published for comment on December 21, 1993 (see 58 FR 67466), and again on October 7, 1994 (see 59 FR 51232).

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[15]The final rule was published on May 4, 1995, at 60 FR 22156 - 22225. The final rule was subsequently amended to make technical corrections on December 20, 1995, at 60 FR 66048 - 66051, and again on May 10, 1996, at 61 FR 21362 - 21364.

[16]See 12 C.F.R. § 25.51, which sets out the transition rules for the version of the joint rule promulgated by the Comptroller of the Currency. Note that certain provisions of the joint rule became effective on January 1, 1996, and additional sections became effective January 1, 1997. All sections of the rule became effective July 1, 1997.

[17]See 12 C.F.R. § 25.11(c).

[18]See 12 C.F.R. § 25.11(c)(3) which discusses the exception for special purpose banks. The definition of the term "banker's bank" used in the rule can be found at 12 C.F.R. § 24 (Seventh).

See 12 C.F.R. § 25.11(c)(2) which discusses the application of the regulations to uninsured banks.

The versions of the joint rule promulgated by each of the agencies address this issue from the standpoint of the different types of banks they regulate. See the Federal Reserve System regulation 12 C.F.R. § 228.11(c)(2) *Foreign Bank Acquisitions*, the Federal Deposit Insurance Corporation regulation 12 C.F.R. § 345.11(c)(2) *Insured State Branches*, and the OTS regulation 12 C.F.R. § 563e.11(c) *Scope*.

[19]There are more limited performance requirements for institutions defined as "small banks" under the joint rule: independent banks with under $250 million in total assets or banks with under $250 million in total assets that are affiliated with a bank holding company with less than $1 billion in total assets. Small bank performance requirements focus on lending, and do not include the investment and service tests. See 12 C.F.R. § 25.11(t) for the definition of "small bank" and 12 C.F.R. § 25.26 for small bank performance standards. Also see Note 29 below.

[20]The definition of "limited purpose bank" is found at 12 C.F.R. § 25(o), of "wholesale bank" at 12 C.F.R. § 25.11(w), and of "foreign bank" at 12 C.F.R. § 228.11(c)(2). See also the discussion in the release under "Scope" at 60 FR 22158 - 22159, and the discussion in Note 18 above.

[21]See 12 C.F.R. § 25.11(b)(1).

[22]The word "communities" has been used here colloquially. The technical term used in the joint rule here is "geographies" rather than "communities." Thus this provision reads: "activities that revitalize or stabilize low- or moderate-income geographies [emphasis added]." See 12 C.F.R. § 25.12(h)(4).

The term "geographies" is specifically defined in the joint rule as "a census tract or block numbering area delineated by the United States Bureau of the Census in the most recent decennial census." See 12 C.F.R. § 25.1(l).

[23]See 12 C.F.R. § 25.12(h) for the definition of "community development." Also see Note 40 below for a discussion of the specific size eligibility standards applicable to businesses and farms.

[24]The regulating agency does not evaluate the assessment area chosen by the bank, as long as the area complies with the criteria in 12 C.F.R. § 25.41.

[25]See 12 C.F.R. § 25.41(a).

[26]See 12 C.F.R. § 25.41(c), (d) and (e).

[27]Banks have the option of being evaluated under goals set out in a "strategic plan" developed by a bank for meeting the credit needs of its community. This alternative is intended to provide additional flexibility to banks; however, the plan must be framed in terms of annual measurable goals for performance in lending, investment and service over a period of up to five years. Strategic plans must include public participation and are subject to advance approval by the regulating agency. A bank operating under an

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approved strategic plan will be evaluated based on the bank's performance relative to the specific annual goals set forth in the approved plan. See 12 C.F.R. § 25.27.

[28]See 12 C.F.R. § 25.28 and Appendix A to Part 25 for scoring. Note that there are five scoring levels for each individual category: outstanding, high satisfactory, low satisfactory, needs to improve, and substantial noncompliance. There are only four scoring levels for overall performance: outstanding, satisfactory (both "high satisfactory" and "low satisfactory" are combined for overall performance scoring), needs to improve, and substantial noncompliance.

[29]Note that there are modifications to the relevant performance tests in the case of banks that fall in the definitions of "small banks" (see 12 C.F.R. § 25.12(t)) or "small savings associations" (see 12 C.F.R. § 563e.11(s)). "Small banks" and "small savings associations" have separate performance standards that do not require performance under the investment and service tests in order for a "small bank" or a "small savings association" to obtain a "satisfactory" CRA rating (for "small banks" see 12 C.F.R. § 25.26 and 12 C.F.R. Part 25 Appendix A paragraph (d), and for "small savings associations" see 12 C.F.R. § 563e.26 and 12 C.F.R. Part 563e Appendix A paragraph (d)).

There are separate modifications to the criteria for both a bank's assessment area and the relevant performance tests in the case of banks which fall in the definitions of "wholesale or limited purpose banks" (see 12 C.F.R. § 25.12(o) and (w)). "Wholesale" or "limited purpose" banks have separately defined performance standards (see 12 C.F.R. § 25.25 and 12 C.F.R. Part 25 Appendix A paragraph (c)).

Both "small banks" and "wholesale or limited purpose banks," may also elect to be evaluated based on goals set forth in an approved strategic plan, as described in Note 27 above.

[30]See 12 C.F.R. § 25.28.

[31]See 12 U.S.C. § 2906(b) and 12 C.F.R. § 25.43(a)(2).

[32]See 60 FR 22169-22170. A performance score of at least "low satisfactoy" is necessary in order for a bank to obtain an "Outstanding" CRA rating, however, the CRA performance scoring system under the new joint rule does allow a bank to achieve a "Satisfactory" CRA rating without any investment activity.

[33]By contrast, under the prior CRA regulations, regulators were directed generally to:

> "assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the bank"

See 12 C.F.R. § 25.7, superseded by the new joint rule.

In assessing a bank's performance, the prior rule also provided a list of twelve factors that the regulating agency was directed to take into account. Bank investment activity is referred to in only one of the twelve factors:

> "(h) The bank's participation, including investments, in local community development and redevelopment projects or programs;"

See 12 C.F.R. § 25.7(a) through (l), superseded by the new joint rule.

Investment activity is referred to under the old rule simply as one way that a bank can participate in "community development and redevelopment projects and programs." The old rule contemplated bank investment in nonprofit community development organizations and low- and moderate-income housing projects. It provided little, if any, guidance as to what types of commercial investments would be considered appropriate community reinvestment activity.

[34]See 12 C.F.R. § 25.23(a).

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[35]The application of these criteria to the CRA ratings is discussed in more detail in 12 C.F.R. Part 25 Appendix A paragraph (b)(2).

[36]See 12 C.F.R. § 25.23(b).

[37]See 60 FR 22162, Note 3.

[38]See 12 C.F.R. § 25.12(s) for the definition of "qualified Investment." Note that the term "primary purpose" used in this definition is not defined in the new regulations.

The process an examiner would go through to determine whether the "primary purpose" of a non-SBIC investment fund is community development was discussed in an interpretive letter from the Board of Governors of the Federal Reserve System, dated October 7, 1997:

> "In determining whether an activity has as its 'primary purpose' community development, examiners will review any loan documents, prospectus or other information provided to them by the financial institutions. If a majority of the activity meets the definition of community development an examiner will consider it to have as its 'primary purpose' community development. If a majority does not meet the definition, the examiner will generally consider the following factors:
>
> > Whether the express, bona fide intent of the Fund, as stated, for example in the prospectus, is primarily to provide affordable housing for low- or moderate-income individuals and/or to revitalize or stabilize a low- or moderate-income area ('the community development purpose(s)');
> >
> > Whether an activity is specifically structured to achieve the expressed community development purpose(s); and
> >
> > Whether an activity is reasonably certain to accomplish the community development purposes." [Footnote omitted]

[39]See 12 C.F.R. § 25.12(h) for the definition of "community development."

[40]See 12 C.F.R. § 25.12(h)(3). Subsection (3) also includes businesses or farms which have gross annual revenues of $1 million or less. These businesses, however, would normally fall within the SBA size eligibility standards for the Small Business Investment Company program. For example, the size eligibility standard for the SBIC program set out at 13 C.F.R. § 121.301(c)(1) requires a small business (together with its affiliates) to have: ". . . tangible net worth not in excess of $18 million, and average net income after Federal income taxes (excluding carry-over losses) for the preceding 2 completed fiscal years not in excess of $6 million. . . ."

The SBA size eligibility standards referred to are set out in 13 C.F.R. § 121.301(b) and (c), the definition of "businesses concern" is set out at 13 C.F.R. § 121.105, and the standards for determining a business concern's "affiliates" for purposes of the size eligibility standards are set out in 13 C.F.R. § 121.103.

[41]See 12 C.F.R. § 25.12(h)(3) in the definition of "community development" for the incorporation of the SBIC size standards for "small concerns" to define what size businesses will be considered for qualified investments. Note that the cross reference to the SBA regulations in the rule as originally promulgated was corrected in a technical release at 61 FR 21362 - 21364.

[42]The interpretation by the regulatory agencies that a business which meets the size standard in the definition of "community development" also needs to meet one (or more) of the other criteria listed in that definition in order to be considered a "qualified investment" is articulated in interpretive letters discussed in note 46 below.

[43]Footnote 3 to the release provides examples of qualified investments:

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"Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares: . . . .in support of organizations promoting economic development by financing small business, including Small Business Investment Companies (SBICs) and specialized SBICs; . . ."

See 60 FR 22162, Footnote 3.

[44]The characterization of an SBIC as a "safe harbor" is solely the view of the author, and not that of any regulating agency.

As discussed below, the regulating agencies will only presume that an investment in an SBIC is a qualified investment. In informal comments, OCC staff have suggested that if the facts regarding a particular investment in an SBIC rebutted the presumption, an agency could disqualify the investment.

The status of SBICs as qualified investments is discussed specifically in the "Interagency Questions and Answers Regarding Community Reinvestment," published October 21, 1996, at 61 FR 54647-54667. The special status of investments in SBICs is discussed in Question 1 under Section 25.12(h)(3) at 61 FR 54650:

> *"Q1. 'Community development" includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Do all activities that finance these businesses and farms promote economic development?*
>
> "A1. No, not necessarily. The agencies will presume that all financing for small businesses or farms made through Small Business Administration programs, such as an investment in a Small Business Investment Company, has an economic development purpose [emphasis added]. Other activities that finance small businesses or farms that meet the size eligibility standards must support permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income or finance businesses and farms located in low- or moderate-income geographies or in geographies targeted for redevelopment by federal, state, local or tribal governments in order to be considered as promoting economic development."

Note, however, that in informal conversations, OCC staff have indicated that an amendment to this Interagency Interpretive Question and Answer will be proposed in the near future.

[45]As a general matter, there is no "look through" to an SBIC's underlying portfolio in connection with an investment in an SBIC when it is evaluated in connection with the investment test.

This is not an unqualified matter, however, since the discussions in interpretive letters of the "presumption" of community development purpose for an SBIC suggests that an examiner might under specific circumstances examine the nature of specific portfolio investments made by an SBIC. See the discussion of "presumption" in Note 46.

Note also, that in the case of an SBIC engaged in lending, a bank would have the alternative of electing to have the lending activities of the SBIC evaluated in connection with the bank's performance under the lending test. Where a bank has elected to have an SBIC's activities evaluated under the lending test, the agencies will look through the SBIC and evaluate its underlying portfolio. See, for example, the discussion in CRA Interpretations -- designated as OCC Interpretive Letter 727, June 27, 1996.

[46]This position was stated in an interpretive letter designated as OCC Interpretive Letter 799, dated September 3, 1997, which pointed out the difference between an investment in an SBIC and other types of investments:

> "The agencies will presume that any loan or investment in or to an SBDC or SBIC promotes economic development. However, any loan or investment in a business that merely meets the size standards applicable to the SBDC or SBIC programs, or has less than $1 million in gross annual revenues, must also promote economic development if it is to be considered community development."

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This position was repeated in a an interpretive letter from the Board of Governors of the Federal Reserve System, dated October 7, 1997, which made the same point in slightly different language:

> "Financing businesses meeting the above size eligibility standards [the standards for SBDCs and SBICs] or that have revenues of $1 million or less do not necessarily promote economic development. The Agencies' examiners will presume that any loan to or investment in a Small Business Development Company or Small Business Investment Company promotes economic development. Other activities that finance small businesses that meet the size eligibility standards must promote economic development."

[47]The nature of the bank examiners' evaluation of an investment in a non-SBIC fund is discussed in an interpretive letter dated September 3, 1997, designated as OCC Interpretive Letter 799:

> "Examiners may determine that the Fund [a non-SBIC fund] engages in activities primarily intended to revitalize or stabilize low- or moderate-income geographies. They will make this determination based on information provided to them by the investor financial institutions. In evaluating that information, examiners may consider the following factors:
>
> - Whether the express, bona fide intent of the Fund is to promote the community development purpose of revitalizing or stabilizing a low- or moderate-income geography;
>
> - Whether the Fund is specifically structured to achieve the expressed community development purpose(s); and
>
> - Whether the Fund is reasonably certain to accomplish the expressed community development purpose(s)."

[48]The term "affiliate" is defined in terms of common control, see 12 C.F.R. § 25.12(a), and investments by affiliates is discussed at 12 C.F.R. § 25.23(c).

[49]For example, a bank can claim CRA credit for an equity investment in a non-bank business made by an affiliated bank holding company which meets the requirements for a qualified investment, even though the bank would not be permitted to make such an equity investment directly.

[50]Any such broader regional area must include the bank's assessment area. The status of investments in regionally focused SBICs is discussed specifically in the "Interagency Questions and Answers Regarding Community Reinvestment," published October 21, 1996, at 61 FR 54647-54667. The special status of investments in SBICs is discussed in Question 5 under Section 25.12(i) at 61 FR 54650:

> "Q5. *Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulation's requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*
>
> "A5. No, the regulations, for example, recognize that community development organizations and programs are frequently efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multi-state basis. Therefore, an institution's activity is considered a community development loan or service or qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area [emphasis added]. . . ."

[51]Although an SBIC with a regional investment focus (assuming the region includes the bank's assessment area) will be presumed a qualified investment, how the investment is evaluated under the investment test depends on how directly the investment benefits the bank's assessment area.

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This issue is discussed in the context of community development loans, in the "Interagency Questions and Answers Regarding Community Reinvestment," published October 21, 1996, at 61 FR 54647-54667. The special status of investments in SBICs is discussed in Question 6 under Section 25.12(i) at 61 FR 54651:

> *"Q6. What is meant by a 'regional area' in the requirement that a community development loan must benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*
>
> "A6. A 'regional area' may be as small as a city or county or as large as a multi-state area. For example, the "mid-Atlantic states" may comprise a regional area. When examiners evaluate community development loans that benefit a regional area that includes the institution's assessment area, however, the examiners will consider the size of the regional area and the actual or potential benefit to the institution's assessment area(s). In most cases, the larger the regional area, the more diffuse the benefit will be to the institution's assessment area(s). Examiners may view loans with more direct benefits to an institution's assessment area(s) as more responsive to the credit needs of the area(s) than loans for which the actual benefit to the assessment area(s) is uncertain or for which the benefit is diffused throughout a larger area that includes the assessment area." [emphasis added]

[52]The generally accepted view in the venture capital industry is that the ratio of business plans reviewed to investments made is in the order of 100:1. Thus, a typical SBIC planning a portfolio of investments in 15 to 20 businesses over a two to three year period will need a market area which can provide a deal flow of approximately 1500 to 2000 investment opportunities (which are sufficiently enough developed to support a business plan) over that period. If an SBIC's market is not large enough to provide an adequate deal flow, the economic viability of the SBIC will be adversely affected, since it will have to either lower its quality standards for investments or slow its rate of investment and limit the number of the investments in its portfolio.

[53]Note that not all investments by an SBIC are required to meet the SBA's size standards for a "small business." In certain circumstances an SBIC is permitted to make follow-on investments in, and provide refinancing to, a portfolio company that met the small business size standards when the initial investment was made by the SBIC, but has since grown. See 13 C.F.R. § 107.760 and 13 C.F.R. § 121.304.

[54]See Notes 46 and 47 above.

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October 28, 1999

The Honorable William Jefferson Clinton
President of the United States of America
The White House
Washington, D.C. 20500

Dear President Clinton:

I pressed hard for a Financial Services Modernization bill that took a strong stand on the Community Reinvestment Act (CRA). When it became clear that the final bill would assure that CRA remains vital and relevant in the new financial landscape, I was quick to praise it and I still do.

However, when I look at some of the finer details of the bill, I believe that changes are still needed to address the ominous language of the "sunshine" provisions. While I support the notion that community organizations should be held accountable, I believe the detailed reporting language will cast a pall over CRA by local community groups. Additionally, I am concerned that the real reason for these provisions is to collect the necessary data for future attacks on CRA. These provisions implicitly support the premise that community groups are engaged in extortion and fraud regarding CRA. These reporting and penalties will have a chilling effect on groups' efforts to highlight weaknesses in bank performance as well as their efforts to forge partnerships with lenders.

I believe that in addition to the significant changes already made, two modest additional changes are necessary to restore equilibrium to CRA. These changes would in no way adversely affect the bill; and they should be supported by the banking industry.

First, under the CRA Sunshine Requirements, I would like to see the proposed new Sec. 48 (c)(3) of the FDI Act eliminated. The information requested under these reporting requirements is too

Rev. Willie T. Barrow, *Co-Chair of Board of Trustees* • Dennis Rivera, *Co-Chair of Board of Trustees*
Janice L. Mathis, *General Counsel*
Rev. Jesse L. Jackson Sr., *Founder & President*

highly detailed and burdensome, particularly for small community groups who do not maintain information in this format.

Second, efforts were made in the legislative drafting to narrow the scope of activity defined as a "CRA agreement," limiting it to activity relating to bank applications and examinations. I believe that the proposed new Sec. 48 (e)(1)(B)(ii) should eliminate references to individuals and organizations that have "discussed or otherwise contacted the institution" concerning CRA. These phrases case an extremely broad net and would cover situations where a bank – even one with no application pending or a scheduled CRA exam – approached a community group about establishing a partnership that might be counted as part of its CRA record. Without a change, community groups will rightly fear that even the slightest criticism of bank performance will ensnare them in a federal regulatory review.

Lastly, I understand that several privacy groups are unhappy with the bill. While some progress has been made, more needs to be done.

We are in the final throes of this process, and I need your support for these changes to the bill. I believe that with these adjustments we can create a stronger piece of legislation that serves both the financial industry and their local community partners.

Sincerely,

Jesse L. Jackson

Rev. Jesse L. Jackson, Sr.

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Divider Title: 20 _____

The Financial Modernization Bill Keeps CRA Strong
CRA Applies to Newly Authorized Activities

The final bill assures that CRA remains vital and relevant in the new financial landscape. The legislation preserves the current CRA review and comment process when a bank acquires or merges with another bank, and also updates CRA with changes designed to improve its effectiveness.

- **For the first time, CRA will apply to banks and their holding companies in the context of expansion into newly authorized activities, such as securities, insurance underwriting and merchant banking.** For the first time, having and maintaining satisfactory CRA performance is an essential condition for a bank or its holding company expanding into non-banking activities. Each and every time the holding company commences such an activity, or acquires a company in these new areas, all of its insured depositories must meet this test. Until now, regulators have permitted banks to make very large acquisitions of securities and other non-bank activities without any statutory CRA performance requirements at all.

- **The bill deletes the Senate bill's CRA exemption for small rural banks.** The small bank provisions of the original S. 900 would have exempted from CRA a full 38 percent of all banks, many of which are the only significant credit sources in rural communities. The final bill deletes this loophole. Although many small rural banks serve their communities well, their record is not uniform -- small banks receive a disproportionately high number of less-than-satisfactory CRA ratings.

- **The bill deletes the Senate's "CRA safe harbor" that would block community comments on most banks' CRA applications.** A bank's CRA performance can change over time for a variety of reasons, including mergers or changes in management. S.900 created a presumption that a bank was compliant with CRA even if its last satisfactory rating was based on a 'stale' evaluation. This unwarranted safe harbor has been dropped.

- **The bill deletes Senate's unfair burden of proof requirements on the public.** Instead of allowing regulators to consider all legitimate CRA-related comments fairly, S. 900 would have blocked regulators' consideration of public comments unless they met a substantial legal hurdle. This is an unfair burden for community groups, which often provide information based on first-hand experience that is quite valuable to regulators making CRA evaluations. The final bill deletes this unfair provision.

- **For small banks, the bill targets CRA regulatory resources on banks with the poorest CRA records, creating an incentive for better community reinvestment performance.** The bill provides that regulators will examine banks with less than satisfactory CRA ratings much more frequently than banks with satisfactory or outstanding ratings. These provisions complement streamlined CRA exam procedures for small banks put in place in 1995, which focus regulatory efforts on five performance measures and impose no data collection or reporting burdens on these banks.

- **The bill provides for appropriate "sunshine" on CRA,** while protecting communities from undue reporting burdens. The bill also provides for targeted penalties to ensure that community reinvestment funds are used for the community.

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Divider Title: 21 _____

THE WHITE HOUSE

WASHINGTON

November 12, 1999

Dear Michael:

Thank you for your November 5, 1999 letter urging that I meet with Community Reinvestment Act (CRA) advocates regarding financial services legislation. My senior advisors, Gene Sperling, Director of the National Economic Council, Treasury Secretary Larry Summers, and senior Treasury officials have been in constant and repeated contact with leaders of the community reinvestment advocacy community with respect to S. 900 through the entire length of the negotiations. In fact, the same day you wrote your letter, Treasury Secretary Summers met with the Board of Directors of the National Community Reinvestment Coalition. I hope to work closely with many community development organizations as we continue to press our shared agenda to bring new capital and investment to America's New Markets.

I shared the views of CRA advocates that earlier versions of S. 900 were completely unacceptable in regards to CRA. Indeed, I made clear repeatedly that I would veto S. 900, if it weakened CRA or allowed institutions with unsatisfactory CRA records to take advantage of new power under the bill. Thanks to the tireless efforts of my Administration, committed members of Congress, and outside advocacy groups, I believe that the final legislation meets my test of protecting the vitality of CRA -- and indeed in some key ways strengthens it. This bill establishes an important, prospective principle: banking organizations seeking to engage in new, non-banking activities must demonstrate a satisfactory record of meeting the needs of all the communities they serve. Thousands of transactions involving securities activities and other non-banking activities, previously exempt from CRA review, will for the first time be covered.

In addition, wholly unacceptable measures affecting CRA, such as an exemption for small banks and a so-called "safe harbor" limitation on public comment, were eliminated. And, in the final days of negotiation, the conferees dropped from the bill

provisions authorizing new wholesale banks not covered by CRA, which could have resulted in a shift of billions in assets from CRA coverage.

With respect to the new disclosure and reporting requirements on financial institutions and community organizations that enter into CRA agreements, we worked with the conferees to significantly narrow the language. The final language and legislative history make clear that no undue burden shall be placed on banks and community groups as a result of the provision. This is important because I value the wonderful partnerships that have emerged between our nation's financial institutions and community groups. These groups have shown banks and thrifts the profitable business opportunities in their own communities and helped to spur over a trillion dollars in loan commitments for low- and moderate-income neighborhoods. I respect and honor this work.

CRA has proven to be an essential tool to spur investment in low- and moderate-income neighborhoods. We need other tools as well. I will not rest in my efforts to bring jobs and economic development to the communities that have not shared, as they should have, in our remarkable economic growth. I want to work with Congress to enact new tax credits and other incentives for investment in underserved communities. I also want to work with businesses, community groups, and government officials to highlight the economic potential of America's own New Markets. I hope we can work together on these shared goals.

Sincerely,

Bill

The Honorable Michael E. Capuano
House of Representatives
Washington, D.C. 20515

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Divider Title: 22 _____

ACORN

The Financial Modernization Conference Agreement Harms CRA

"Sunshine" provision

Summary: As in the Senate bill, the proposed agreement includes both public disclosure of Community Reinvestment Act (CRA) agreements and reporting requirements for banks and their partners in the agreement.

Critique: This provision is designed to discourage CRA agreements that commit banks to improving their lending records in underserved communities. Although it's portrayed as an innocuous reporting requirement, "sunshine" is an attack on the one category of banks' contracts that improves their lending to lower-income people and minorities. Unlike the government's laissez-fairre approach to banks' contracts with advertisers, mortgage brokers, or anyone else that increases banks' business with other categories of customers, "sunshine" applies a different standard to banks' contracts with community groups and subjects those partnerships to what can only be negative interference by bank regulators.

This seems to be a solution in search of a problem, as Sen. Gramm has yet to provide any evidence of one. By his own account, Sen. Gramm has spent the better part of the past year directing his staff (at taxpayer expense) to harass banks into sending him their confidential CRA agreements and to search through every single CRA-related comment that's been submitted to regulators in the past five years. It's too bad he hasn't spent part of that time in low income communities, getting first-hand knowledge of how CRA really works. But when you sort through it all, he's found three things:

•Banks are providing support for loan counseling programs and other services that have proven successful in increasing their lending in lower-income neighborhoods.

•Banks are paying fees to some community groups that are in line with what they pay to mortgage brokers for providing what is essentially the same service.

•A bank or two has been "forced" into telling members of Congress it supports CRA. These provisions reflect conversations in which banks privately tell groups they support CRA, and the groups ask them to make that support public.

Sen. Gramm has also implied that there is something wrong about community groups agreeing to withdraw their objections to a merger in exchange for the bank entering into a CRA agreement with them. Such language is in almost every one of ACORN's agreements with banks, and there's absolutely nothing wrong or unethical about it. When a community group files a protest regarding a bank's community reinvestment performance, our ultimate objective isn't to criticize the bank but to push it to provide fairer access to loans and services to residents of currently underserved neighborhoods. The best means we've found for doing that is to get the bank to sign a CRA agreement that commits it to work with us through various programs that have solid track records of improving banks' community reinvestment performance. Through these partnerships, banks agree to provide more flexibility in their underwriting standards, reasonable interest rates (contrast to predatory lenders), and greater outreach to minority and lower income neighborhoods. If the bank is willing to enter into such a CRA agreement, the community group's primary concern has been addressed, and there's nothing shady about its agreement to refrain from filing a protest.

Association of Community Organizations for Reform Now

National Office: 739 8th Street S.E., Washington, D.C. 20003 • 202-547-2500 FAX 202-546-2483

Small bank regulatory changes

Summary: Under current practice, all banks are subject to exam about once every two years. Since 1995, small banks – defined as those with under $250 million in assets -- go through a streamlined CRA exam process that regulators estimate leaves such banks with a paperwork "burden" that takes up ten hours of one employee's time per year. Under the proposed agreement, those same small banks would be examined once every four years if they received a satisfactory rating and once every five years for an outstanding rating.

Critique: This is another solution in search of a problem. The simple fact that a bank received a passing grade on whether it was adequately capitalized does not provide any justification for postponing its next exam; so why should it postpone a bank's CRA exam? That's what this provision would do for the 97% of small banks that currently receive a satisfactory or above rating (grade inflation). It's obvious that the paperwork burden isn't excessive and that the only "burden" from which the provision's proponents are trying to free banks is their obligation under CRA to meet the needs of all of their communities.

There also is a common misperception that lack of access to capital is a problem confined to urban areas, but residents of many lower-income, rural communities face similar difficulties in obtaining a home mortgage or a farm or small business loan. Many of those communities have only one or two small banks nearby so it is essential that all of them are rated regularly for their lending performance. Spacing out exams once every four or five years would make it easy for small banks to boost their performance in the period leading up to the exam and then let it slide -- to the detriment of lower-income communities.

CRA requirements for cross-industry mergers

Summary: This is a watered-down version of a modestly positive piece in the House bill – the 'have and maintain' clause. Under the old House bill, a bank applying to merge with a securities firm or insurance company (a new power granted by the overall legislation) would have needed a satisfactory CRA rating or been subject to a range of penalties. Then they would have had to maintain that rating in the future or again be subject to penalties. Under the proposed agreement, the 'have' is kept but the 'maintain' is dropped. In its place, the bank is required to have a satisfactory CRA rating in order to make future acquisitions of insurance companies or securities firms. For all such newly authorized mergers, there is no opportunity for public comment.

Critique: The bill encourages the creation of huge new financial conglomerates that would be less responsive to the needs of local communities and would lead to an even greater concentration of financial resources and power. This combination would substantially reduce lending in underserved communities to much more than offset any minimal gains made through encouraging banks to have satisfactory CRA ratings (which 98% currently have). And as the CRA requirement is dependent on additional merger applications, once a bank acquires a securities firm and an insurance company and reconfigures its operations, it is unlikely to file any more such applications, and the requirement might never again go into effect.

Some supporters of the provision have asserted that the 'maintain' had to be dropped to keep it line with how CRA has always applied to the banking industry, to which we raise two questions. First, the bill changes the entire structure of the financial industry; why couldn't we make a very modest change to how CRA applies? Second, if we are in fact constrained by how CRA currently applies, why isn't there an opportunity for the public to comment on the impact of the merger application (as the public is allowed to do when one bank files to acquire another bank)? With no opportunity for public comment and 100% of bank holding companies receiving satisfactory CRA ratings as grade inflation runs rampant, the provision is almost reduced to a simple paperwork requirement.

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NCRC Letter
Critique 1
CRA in Fin Mod

November 1, 1999

RE: Financial Services Modernization

Dear Member of Congress:

The undersigned organizations urge you to vote "no" on the conference report on S. 900, the so-called "financial services modernization" bill. While rewriting the ground rules for the financial services industry, the bill fails to protect and promote access to capital, credit and financial services for low and moderate income and minority Americans.

S. 900 may be one of the most significant bills to come through Congress in this century, and it has been described as our "financial services constitution" for the next century. Debate over the Gramm-Leach-Bliley Act has been painted as a battle among financial industry titans, but the plain truth is that it will reduce economic opportunity and access to credit for Americans of modest means, for minorities, and for the communities in which they live.

This bill is Congress' opportunity to guarantee that our redesigned financial services system serves all Americans. Yet, the bill reported out of the conference committee has let that opportunity pass by. Indeed, it is more notable for its failures than for its efforts to protect access to capital and credit for all Americans:

The bill fails to require that banks taking advantage of the newly authorized activities sustain their commitment to serve low and moderate income communities. It weakens the language from H.R. 10 that would have required this ongoing commitment to Community Reinvestment Act (CRA) performance for institutions expanding across industry lines.

The bill fails to fully protect the Community Reinvestment Act, a law that has brought development, hope and opportunity to low and moderate income communities in urban and rural areas across the country. This bill contains an onerous provision, falsely labeled "sunshine," that is based on the presumption that community groups use the Act as a tool of extortion and blackmail. This presumption is simply wrong, and no evidence has ever been presented to support it. Yet, this provision would single out community groups – alone among bank customers – for special surveillance. It will ensnare community groups in a complex legislative and regulatory morass, impose burdensome reporting requirements and expose them to severe penalties for non-reporting. It will have a chilling effect on the partnerships between banks and community groups that have been so effective in opening up access to credit and banking services in low income and minority communities.

The bill fails to keep CRA intact for small banks, which will have a particularly heavy impact in communities where these institutions dominate the market. The extended period between exams for small banks means that deterioration in their performance may go undetected for far too long without impeding their ability to take full advantage of the new powers authorized by the bill.

The bill fails to protect customers of banks owned by insurance companies from illegal discrimination. An earlier version of the bill would have prohibited insurance companies found guilty of violating the Fair Housing Act from affiliating with banks. This protection -- so important since insurance agents may become the salespeople for their new bank affiliates -- was stripped out of the bill.

Post-it® Fax Note 7671	Date 11/2	# of pages ▸ 2
To Sarah Rosen	From Debbie Goldberg	
Co./Dept.	Co. CCC	
Phone #	Phone # 342-0567	
Fax # 452-2223	Fax #	

The bill fails to provide access to basic, low cost banking accounts for low and moderate income consumers. This provision was adopted by the House in the last Congress; its absence from this bill leaves these customers on the fringes of our banking system, rather than providing them with access to the mainstream.

Most fundamentally, the bill fails to embody the concept that the securities, insurance and other financial services firms that make up the new financial holding companies the bill authorizes should have an obligation to help serve the financial needs of low and moderate income people, minorities, and underserved urban and rural communities. Without such protection, big corporations may benefit from "financial modernization," but average Americans will not.

This bill has been twenty years in the making. Unless these problems are corrected now, it will likely be twenty years or more before Congress has the opportunity to address them again. That is too long. We urge you to vote against this bill.

Sincerely,

Alliance to End Childhood Lead Poisoning
American Planning Association
Association of Community Organizations for Reform Now (ACORN)
Campaign for America's Future
Center for Community Change
Coalition of Community Development Financial Institutions (CDFI Coalition)
Coalition on Human Needs
Consumers Union
Employment Support Center
Greenlining Institute
International Union of United Auto Workers
Jesuit Conference
Lutheran Office for Governmental Affairs, ELCA
McAuley Institute
National Alliance to End Homelessness
National Association of Housing and Redevelopment Officials
National Center on Poverty Law
National Community Capital Association
National Community Reinvestment Coalition
National Council for Community Behavioral Health Care
National Council of Senior Citizens
National Fair Housing Alliance
National Federation of Community Development Credit Unions
National Head Start Association
National Housing Trust
National Low Income Housing Coalition
National Neighborhood Coalition
National Neighborhood Housing Network
National People's Action
National Puerto Rican Coalition
National Rural Housing Coalition
National Training and Information Center
NETWORK: A National Catholic Social Justice Lobby
Organization for a New Equality
Ralph Nader
Sierra Club
Surface Transportation Policy Project
United Church of Christ, Office for Church in Society
Volunteers of America
Wider Opportunities for Women
Woodstock Institute

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COMMENTS ON
THE FINANCIAL MODERNIZATION BILL
AND COMMUNITY REINVESTMENT
BY: BART HARVEY
CHAIRMAN & CEO OF THE ENTERPRISE FOUNDATION

To quote Mick Jagger, "You can't always get what you want, but if you try real hard, you'll get what you need."

The CRA provisions in the financial modernization bill are the classic result of the legislative process in a democracy: They are an ambiguous compromise that leaves both sides dissatisfied. Senator Phil Gramm did not succeed in his campaign to permanently disable CRA with an exemption for small banks and a "safe harbor" from community protest for large banks. We have the Administration, the Treasury Department and the progressive elements of Congress to thank for that. At the same time, CRA advocates who campaigned for CRA to be expanded to cover acquired insurance and securities companies were also disappointed by the final legislation and the small steps backwards in some cases.

CRA was at extreme risk due to Senator Gramm's tactic of holding the entire financial modernization bill (and all that lobbying money) hostage to final compromises in CRA.

The CRA compromise can be characterized as a reasonable one particularly given the alternatives. Senator Gramm's extremely negative Senate bill regarding CRA was largely defanged in the compromise. He won no victory other than a petty, small set back in CRA regulation.

Positively, the legislation does require a bank to have a satisfactory CRA rating before expanding into new activities. 98% of banks meet this test, so it seems quite remarkable that there was a spirited debate on such an innocuous standard. Yet without this provision, CRA would have been doomed to complete irrelevance in the new world of financial services. The Clinton Administration's Treasury Department fought very hard to make sure that this modest expansion of the reach of CRA was included. They faced determined opposition but insisted on this crucial piece as their price for signing off on a financial modernization bill.

The hard bargaining between the Treasury Department and Congress resulted in what had been a complete exemption from CRA for small banks being whittled back to a provision that stretched out the CRA exam cycle to four years for banks with a satisfactory rating and five years for banks with an outstanding rating. The complete exemption from CRA for small banks would have been a disaster for rural areas where most small banks are located. Small towns often have only one bank, and to exempt these little local monopolies from CRA would have resulted in less credit for farmers and

small businesses in many parts of the country.

The financial modernization bill also contains unnecessary mischief called the CRA sunshine provision. This part of the bill requires banks and community groups that are party to CRA agreements to disclose their financial dealings and imposes penalties for failure to disclose. For example, this provision would apply to a nonprofit that was doing a housing counseling program for a bank or running a loan fund. The bank regulators are required to collect this information, but it is not clear what they are to do with it. The provision was much improved in the final flurry of negotiations.

Community groups may be able to satisfy the requirement by submitting audited financial statements. How this works out in practice is largely due to how the banking agencies draft the regulations. It is certainly ironic that a Congress bent on deregulating the financial system would impose a pointless paperwork requirement that may be burdensome on partnerships between banks and community groups that are improving neighborhoods.

The most vexing question of all is whether this bill will hurt low-income neighborhoods and CRA over the larger haul or not. The fact is that financial deregulation is already occurring around the country anyway through numerous loopholes in existing regulation. The bill codifies what is in fact happening and levels the playing field for securities firms and insurance companies. To date, there is no evidence that bigger financial institutions are harmful to greater community reinvestment—in fact, we might argue that large, targeted efforts by sophisticated, strong, well-staffed community reinvestment departments have helped move the field forward.

Yet, is this the best bill the community development field might get? There is great risk in opposing this bill to wait for one next year or the year after with Senator Gramm in control (and likely to remain so) and no assurance of a threatened administration veto, with a lot of lobbying power in the balance. In conclusion, the compromise makes sense to The Enterprise Foundation.

In the twenty-two years since its enactment, CRA has shown banks countless lending opportunities in neighborhoods that they otherwise would have overlooked. CRA loans have been profitable, and inner cities and low-income rural areas have benefited tremendously from the flows of capital from the private sector. CRA has created enduring partnerships between lenders and nonprofits and an entire new industry of community development lending. It is also not clear whether the tentative steps in the financial modernization bill to make CRA relevant in the new world of financial services will actually be effective. More important than this bill, there needs to be a strong movement to monitor performance, emphasize and deliver results and marshal public policy in favor of all forms of community reinvestment.

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THE SECRETARY OF COMMERCE
Washington, D.C. 20230

Gene
LORETTA
STEPHANIE
MARIA
DAVID B.
we should consider as part of digital divide effort
JOHN

To: John Podesta

From: William M. Daley WD

Elliot Maxwell 482-0211

Subject: Opportunity for the President To Appear at Comdex

Date: March 2, 2000

As we discussed, I want to highly recommend that President Clinton keynote the Comdex computer show in Chicago the week of April 18th. At the show, we will have for the President the Commerce Department's new digital economy report to release; he can focus attention on the digital divide; and, most importantly, call on the industry to support China's entry into the WTO.

Comdex attracts tens of thousands of attendees; and much of America's high-tech industry will have exhibits and be announcing new products. Comdex is run by Ziff-Davis. They hold two big shows a year -- Chicago in the spring, which is tied to Windows World; and the even larger Las Vegas show in the fall. Typically, they have a keynoter every day the show runs. Last fall at the Vegas show, Bill Gates, John Chambers, Carly Fiorina, and Scott McNealy were among the keynoters. At the Chicago show in April, keynoters include Flip Filipowski, and top people from Palm Computing, Sun Microsystems, and Microsoft (but not Bill Gates, although he has done Chicago several times previously.)

Typically, keynoters use these opportunities to demonstrate new products. In some cases they give traditional speeches; but more often their one hour is a Hollywood-like show, although that is more often the case in Vegas than Chicago. Many national news organizations carried live coverage from the Vegas show, and the Post even sent a reporter to cover the scene.

Beginning last summer my staff had proactively been seeking Comdex as a venue for me to speak, and in November Comdex was kind enough to offer an invitation. Because of my trip to China, I now will not be able to attend. As an industry show, Comdex has never had a government keynoter -- the President will be the first. In light of what was to be my involvement, Comdex began also putting together a special session, where they hope to attract several members of Congress to discuss the digital economy.

This is a wonderful -- and very timely opportunity -- for the President. He could either make a straight speech; or if he would like to go more Hollywood, we had come up with several ideas -- particularly on the digital divide -- that you may want to consider for him. Our thinking was to get prominent Americans to become a voice for closing the divide.

These include:

1) asking Magic Johnson or other celebrities with an interest in the Internet, like Michael Jordan, to participate. Magic is starting a new portal aimed at African Americans, and Michael is a partner in MVP.com -- a Chicago-based company that will sell sporting goods on the Net. My staff had approached Magic about doing this with me, and he was inclined to say yes. At Comdex, the President could have a conversation with him as well as a child or teacher from Chicago on the digital divide.

2) asking Oprah Winfry to participate. As you know, she reviews books once a month on her TV show, and we approached her about committing to review the Digital Divide report, when it comes out in October. We had thought she could announce this at Comdex. It would be the first government report ever reviewed by her -- or probably any government report ever reviewed by anyone. We would make it available in a consumer oriented version online. She had not accepted our offer, but perhaps Cheryl Mills could help in this regard.

Mort Engleberg has been involved with helping us, and I am sure he would be glad to help the President. On my staff, Ilene Zeldin (482-5035) has been coordinating this for me. And the contact for the White House staff to call at Comdex is Jeff Sudbey at 781-433-1716.

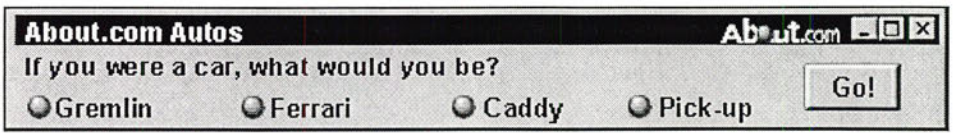
Comdex is eager to invite the President and will be very flexible in the day and time for his possible address. I think it is too great of an opportunity for us to miss, especially as we approach the China vote, and as the President comes off of his digital divide tour.

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Needham, MA, April 06, 2000--

President Clinton to Address I.T. Industry at COMDEX/Spring -- Meeting Place for the New E-conomy

Marks First Time a U.S. President has Appeared at a Major IT Industry Event

COMDEX today received confirmation that the President of the United States, Bill Clinton, will address COMDEX/Spring 2000 in a speech on April 18. COMDEX/Spring is a critical stop on the President's groundbreaking Digital Divide tour, as it represents an unparalleled opportunity for the President to speak and meet with influential members of the information technology (IT) community who hold the key to closing the Digital Divide.

More than 80,000 IT professionals, including industry media and moguls, will be in attendance at COMDEX/Spring, April 17-20, 2000 at McCormick Place in Chicago. This announcement marks the first time a U.S. President has appeared at an IT industry forum of this magnitude.

"I will speak at the influential COMDEX Conference in Chicago, where I'll talk to representatives of every major computer and Internet company in America, and ask them to join our cause," President Clinton said at the Digital Divide kick-off Tuesday afternoon at the White House.

"COMDEX has always been the meeting place for the computer industry and the resulting new technologies," said Fredric D. Rosen, Chairman of ZD Events. "Now, in this new millennium, COMDEX has evolved to become the meeting place for the 'new e-conomy.' We are honored that President Clinton has chosen our first major event of the year to share his vision for closing the Digital Divide."

In a national call to action Tuesday, President Clinton pledged a commitment to closing the "Digital Divide" and creating digital opportunity for all Americans: "While computer and Internet access has exploded in recent years, America faces a 'digital divide' -- a gap between those who have access to Information Age tools and the skills to use them

and those who don't...As companies, non-profit organizations and individuals, we are committed to taking concrete steps to meet two critical national goals: (1) Ensuring Access To 21st Century Learning Tools For Every Child In Every School; and (2) Expanding Digital Opportunity For Every American Family And Community. We pledge to support these two goals."

On his third New Markets Tour "From Digital Divide to Digital Opportunity," the President will work to inspire thousands of organizations to join the cause, as well as work with Congress for budgetary and legislative support. On April 17-18, President Clinton, accompanied by CEOs, Members of Congress, Cabinet Secretaries and community leaders, will focus national attention on initiatives aimed at overcoming the digital divide and creating opportunities for youth, families and communities. During this tour, the President will announce several initiatives to help bring digital opportunity to all Americans. Detailed information on President Clinton's appearance at COMDEX/Spring will be posted at www.comdex.com as it becomes available. Attendees can also register for the event on this site.

"In an age where all business is quickly becoming e-business, access to technology and technology training becomes more critical every day," said Bob Bierman, vice president and general manager, COMDEX/Spring. "The timing is right to close the Digital Divide, making the technology-enabled culture of the new economy a part of everyday life."

COMDEX/Spring assembles the IT solutions, education and experts needed by companies looking to develop new business and IT models and remain competitive in the Internet economy.

ZD Events is the world's leading producer of information technology tradeshows and conferences, serving over 5,000 exhibiting companies and two million attendees through 59 events in 18 countries. ZD Events' products range from the IT industry's largest exhibitions such as COMDEX and NetWorld+Interop, to highly focused events featuring renowned educational programs, custom seminars and specialized vendor marketing programs.

Note: For media registration call: 781/433-1756.

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NEEDHAM, MA, August 28, 1996--

COMDEX/Fall '96 Presents Expert Panels in "International Marketing Forum"

Exclusive U.S. Department of Commerce International Buyer Program Offered

COMDEX/Fall, the largest and most significant trade show and conference in the world for information technology professionals, returns to Las Vegas, November 18-22, 1996. With over 210,000 expected attendees from over 120 countries, over 10,000 new products from 2,100 exhibiting companies and an extensive conference program containing over 70 educational sessions, this year's event will once again lead the way in directing the future of the international IT industry.

"We have worked closely over the past 12 months with our valued exhibitors and advisory board to develop an all-encompassing business-to-business program, that is international in scope. And what you will find at COMDEX this year is every major vendor, every new and emerging computer and communications technology, and the leading industry experts delivering to you the strategies and ideas to move your business forward at today's demanding pace," stated William R. Sell, Show Director, COMDEX/Fall '96.

> "More than 35,000 international attendees from more than 120 countries will be on hand to exchange ideas and develop new business partners, and we will provide the tools necessary to meets those requirements."

Once again, COMDEX will be part of the exclusive U.S. Department of Commerce International Buyer Program and serve as the meeting place for IT executives from multi-national companies. SOFTBANK COMDEX will continue its program of meeting the needs of its international participants through the services of the International Business Center. With this program COMDEX offers, at no charge, multilingual interpreters, private meeting rooms, a full array of business services, and the computerized matchmaking service that helps exhibitors and attendees alike locate their best international prospects and partners.

In a new program developed to meet the growing needs of the international marketplace, COMDEX/Fall will present the International Marketing Forum, an educational event taking place on Sunday, November 17. "This forum will be of significant value to CEO's, presidents, vice presidents, country managers, product managers, strategic

planning directors, channel managers and people and organizations interested in doing business in Europe, the Americas and/or Asia", noted Mr. Sell. "The attendees will gain the benefit of an expert panel of speakers addressing the issues and concerns of companies providing computer hardware and software, consulting services, systems integration, education and training, OEM, distribution and most other high technology products and services."

The three most important emerging technology markets, Europe, Latin America and Asia, will be examined through a series of panel discussions by leading international business experts. "There is no richer environment than the COMDEX/Fall Conference Program for attendees to understand how technology will impact business and people", noted Sam Whitmore, Editorial Director, *PC Week* magazine.

Since the introduction of the first COMDEX event in 1979, SOFTBANK COMDEX has continued to meet the growing needs of the global information marketplace. With an expansive program of more than 39 trade shows and conferences worldwide, including COMDEX events throughout North America, South America, Europe and Asia, SOFTBANK COMDEX provides the premier showcase and most comprehensive educational platform for new and emerging computer and communications technologies.

For further information on the COMDEX/Fall Conference Program, and to register for the International Marketing Forum, as well as all conference programs, be sure to visit COMDEX Online at www.comdex.com.

For additional information, contact: Suzanne Lonergan, SOFTBANK COMDEX, 617/433-1755; Fax 617/444-4806, or via e-mail: lonergan@comdex.com.

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November 7, 1996, Thursday

SECTION: Financial News

DISTRIBUTION: TO BUSINESS EDITOR AND TECHNOLOGY EDITOR

LENGTH: 843 words

HEADLINE: COMDEX/Fall '96 to Host Largest IT Crowd Ever Assembled;
COMDEX/Fall '96 Las Vegas Convention Center, Las Vegas Hilton and Sands Expo and Convention Center, November 18-22, 1996;
The Museum at COMDEX, Industry Luminary Keynotes and New Conference Programs Highlight Event

DATELINE: NEEDHAM, Mass., Nov. 7

BODY:

More than 210,000 professionals from the information technology industry will attend the 18th annual COMDEX/Fall, making it the largest information technology gathering in **history.** **COMDEX**/Fall '96, the most significant IT industry trade show in the world for resellers and corporate decision makers, returns to Las Vegas, Nevada on November 18-22, 1996.

"COMDEX/Fall '96 can offer what no other event in the industry can -- the largest, most comprehensive IT forum in the world," said Bill Sell, show director, COMDEX/Fall '96. "This year's event features new exhibits, pavilions and conference sessions and once again delivers the leading industry experts and companies. In addition, we will be commemorating the 25th anniversary of the microprocessor with the first-ever Museum at COMDEX."

The opening day of COMDEX/Fall will mark the 25th anniversary of the introduction of the microprocessor, which changed the face of the computer industry. To recognize this achievement, the Museum at COMDEX, featuring video presentations, original artifacts and historic exhibitions, will open to attendees at the Las Vegas Convention Center during the five days of COMDEX/Fall '96. Included in the special program "25 Years of Industry Achievement," along with the museum, are an Achievement Awards event, as well as a keynote presentation by Andrew Grove, president and chief executive officer of Intel Corporation, and related high-level conference sessions.

Keynote speeches by industry luminaries are presented at the Aladdin Theater at 9 a.m. and are open to all attendees. Andrew Grove; Bill Gates, chief executive officer of Microsoft Corporation; and James Barksdale, president and chief executive officer of Netscape Communications Corporation are scheduled on November 18, 19 and 20, respectively. In keeping with the 25th anniversary theme, Grove will reflect on the microprocessor's influence on the computer industry and will speculate on future advancements in the industry. Gates will discuss "Information At Your Fingertips: A Challenge For The PC Industry," while Barksdale will examine online issues.

The Museum at COMDEX is made possible in part through a partnership with The Computer Museum. The "25 Years of Industry Achievement" program would not have been possible without the generous support of the following sponsors: Intel Corporation, Motorola Semiconductor Products Sector, SOFTBANK Holdings, Inc.; and Ziff-Davis Publishing Company.

Over 70 Conference Sessions, PowerPanels and SuperSessions are scheduled to provide attendees of COMDEX/Fall '96 with the latest information in key areas of IT. In an innovative initiative, SOFTBANK COMDEX Inc. is offering attendees two opportunities to pose questions to top industry experts and hear them answered at COMDEX/Fall '96. 'Technology Crossfire - Virtual Questions, Real Answers' and 'Ask the Technical Experts' consist of questions submitted to COMDEX via the show's

World Wide Web site, www.comdex.com, reviewed by COMDEX technical advisors and selected for response by leading industry experts.

A record number of attendees and exhibitors are projected at this year's event, including significant international participation. COMDEX/Fall '96 includes COMDEX Internet, COMDEX Multimedia and COMDEX Communications and Network Computing areas, featuring product demonstrations, specialized exhibits and separate conference tracks. COMDEX/Internet will feature two interactive components: Enterprise@Web, demonstrating a real-life intranet and Web-based applications that can help run a global enterprise, and the COMDEX Internet://Experience, providing hands-on training and demonstrations for anyone doing business on the Internet.

In addition, the event will also house several specialized technology and vendor pavilions, including a Microsoft Partner Pavilion, Netscape Partner Pavilion, Mobile and Wireless Computing Pavilion, ISDN Pavilion and CTI Pavilion. Also, to recognize those products which are unique, technically innovative and show strong potential for significant impact on computing worldwide, BYTE Magazine again sponsors the "BYTE Best of COMDEX" awards.

Since the introduction of the first COMDEX event in 1979, SOFTBANK COMDEX has continued to meet the growing needs of the global information technology marketplace. With an expansive program of more than 30 trade shows and conferences worldwide, including COMDEX events throughout North America, Latin America, Europe and Asia, SOFTBANK COMDEX provides the premier showcase and most comprehensive educational platform for new and emerging computer and communications technologies.

Be sure to visit COMDEX OnLine for updated information on all our events: http://www.comdex.com.

For additional information, contact: Suzanne Lonergan, SOFTBANK COMDEX, 617/433-1755; Fax: 617/444-4806, or via e-mail: lonergan@comdex.com.

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LANGUAGE: ENGLISH

LOAD-DATE: November 8, 1996

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PC Week

November 7, 1988

SECTION: Vol. 5 ; No. 45 ; Pg. 52; ISSN: 0740-1604

LENGTH: 660 words

HEADLINE: Is Comdex headed the way of the dinosaur? computer industry trade show; column

BYLINE: Schindler, Paul

BODY:

Is Comdex Headed the Way of the Dinosaur?

Right about now, your desk may be filled with requests from staff members and users who want to attend Comdex. I'd like to offer some good reasons not to send anyone, and some management advice if there are people you can't stop--or if you insist on going yourself.

First off, I think Comdex may be the "NCC of the '80s." Computer trades resemble dinosaurs in several ways. For one thing, they're cold-blooded. For another, they start out small and manageable, then evolve and grow so large that messages from their brains take a discernible amount of time to reach their tails. Finally, when they evolve into giants, they must eat full-time just to survive, and can die because there is only a ton of food instead of 20 tons.

The first victim of the dinosaur syndrome was the National Computer Conference. The descendent of the cozy spring and fall Joint Computer Conferences, by the early '80s it became so gargantuan that it fell of its own weight. It always had enough exhibitors to be a decent-sized show. But because of the brain-to-tail propagation-delay problem, they were the wrong kind of exhibitors (PC vendors were exiled to a different hall). Some see signs that Comdex suffers from the same syndrome.

Comdex began as a small cozy conference for computer-equipment resellers. Now it spreads like kudzu all over Las Vegas every November, attracting far more visitors than the town's frail, gambling-oriented infrastructure can handle. It's not a bad place to be, unless you want to fly in, catch a cab or make a telephone call from a hotel or a pay phone. Then it approximates Dante's description of hell.

Conventioneers, unlike gamblers, all want to be on the floor at 10 and leave at 5--hours when good gamblers lay abed. And conventioneers want to phone home, something gamblers rarely attempt. Between 30-second waits for a dial tone, perpetually busy long-distance trunks and hotel switchboards that are modem-hostile, Las Vegas is the worst place in America from which to attempt to telecommunicate. If you go, or send someone, figure on not hearing from them by voice or data until they return to civilization.

I'm not saying you should avoid Comdex because it's cold-blooded, has the wrong kinds of exhibitors, is too big to handle and is held in an inhospitable venue. I'm saying you should avoid it because, unless you're a computer-equipment vendor, the odds are overwhelmingly against finding something you need, something you're interested in or something you can use.

Not only is the floor full of vaporware, most of the actual products are intended for OEM used and require more support than most corporate PC departments want to provide.

Having said all that, if you insist on going, here are some tips to ensure the trip proves worthwhile.

Have a plan. Figure out what technologies are most critical in your operation before you go. Make a list.

Use the index and the preshow coverage to decide which booths to visit. Plan to spend a reasonable amount of time in each booth, and allow time for visiting the off-floor suites, where the real business of Comdex takes place.

Be flexible in the implementation of the plan. That may sound like a contradiction in terms, but rigidity may cut you off from serendipity. There may be technologies on the floor you didn't expect and have never seen before. Go have a look. Besides, you don't want to come home from Comdex ignorant of this year's "hot box."

Do as journalists do: Plan on writing about it. Even if your corporation doesn't normally produce "trip reports," produce one after attending Comdex. You probably can't afford to send everyone who would like to go. But a written report does two things: It ensures propagation of useful information among the stay-behind population, and it focuses the mind of the attendee. A looming deadline and a blank sheet of paper force you to pay attention.

SIC: 3571 Electronic computers

IAC-NUMBER: IAC 07115069

IAC-CLASS: Computer; Magazine; Trade & Industry

LANGUAGE: ENGLISH

LOAD-DATE: August 11, 1995

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October 14, 1992, Wednesday

SECTION: Financial News

DISTRIBUTION: TO BUSINESS, TECHNOLOGY AND FOREIGN EDITORS

LENGTH: 456 words

HEADLINE: ISRAEL AT COMDEX: HIGH-TECH POWERHOUSE TO SHOWCASE OVER 50 COMPANIES COMDEX TO FEATURE ISRAEL IN ITS FIRST NATIONAL RESOURCES FORUM

DATELINE: NEW YORK, Oct. 14

BODY:

For the first time in its **history, COMDEX** will showcase the industry of one country: Israel. Fifty-eight companies in the Israeli computer industry not only will present their newest wares but will also meet with top U.S. computer executives to develop joint ventures at COMDEX/Fall '92.

Israel's computer industry, which has won a reputation for creativity in software and for innovations in hardware, peripherals and related data- and tele-communications, will have eight companies exhibiting systems/products in the Israel Pavilion, Booth No. 3242, located in the Sands Expo and Convention Center, Las Vegas, November 16th through 20th. Included in the eight are three producers of programmers' software (Contahal, Magic and MLL), two who offer security systems for software (Algorithmic Research and J.B. Electronics), one creator of computer-based training systems (Eureka), one in data collection hardware/software (Linear Industries), and one in electronic imaging software (T.I.S. Teleimage).

Some 50 additional Israeli computer industry firms and the eight exhibitors are also participating in the first COMDEX National Resources Forum, a special two-day event which will take place on Tuesday, November 17th and Wednesday, November 18th.

According to Meir Buber, Israel's Trade Commissioner to the U.S., "The National Resources Forum is a unique business-to-business device that will be initiated with presentations by the top executives of leading U.S. companies who have successfully established subsidiaries in Israel. They include Andy Grove of Intel, Bill Gates of Microsoft, and George Fisher of Motorola.

"Immediately after these presentations, executives of Israeli computer industry companies will meet one-on-one with executives of U.S. firms to discuss possible joint ventures, mutual R&D projects, and marketing relationships. We regard the Forum and the exhibits in the Israel Pavilion as major opportunities to show Israel's phenomenal growth in the computer industry, both in software and other areas where we are at the leading edge of industry technology and design capability."

Sheldon Adelson, CEO of The Interface Group and founder of the COMDEX National Resources Forum, added, "Israel's reputation for developing sophisticated computer products and its growing population of highly educated Soviet immigrants make Israel the ideal country to first present itself in this forum at COMDEX.

"We welcome Israeli companies and look forward to their participation in establishing long-term, profitable relationships with U.S. computer companies." CONTACT: Erin Flynn or Bernie Zwirn, 212-697-5600, or Beth Belkin, 212-560-0600 ext. 442, all for COMDEX

LANGUAGE: ENGLISH

LOAD-DATE: October 15, 1992

The Associated Press

View Related Topics

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December 24, 1997, Wednesday, AM cycle

SECTION: Business News

LENGTH: 485 words

HEADLINE: IBM pulls out of '98 Comdex

DATELINE: LAS VEGAS

BODY:

IBM is pulling out of the world's largest computer show because the company believes Comdex has gotten too big.

That, at least, is the reason IBM gives for not attending Comdex next year for the first time in the show's 20-year **history.**

Comdex organizers estimate about 220,000 people saw last month's show, which IBM attended. Next year's show is scheduled for Nov. 16-20.

"We don't think Comdex is the best way to reach our customers," said John Bukovinsky, a spokesman for the Armonk, N.Y.-based computer giant. "Comdex is a good way to talk to customers about products, but not the best way to talk about solutions."

In order to work directly with prospective customers about their personal computer needs, Bukovinsky said IBM needs "an environment that is not as hectic and crowded as Comdex has become.

International Business Machines Corp. also doesn't plan to attend the smaller Comdex Spring show in April, held in Chicago.

A spokeswoman for Softbank Comdex, the company that produces the computer shows worldwide, said that while IBM would be missed, the company's absence won't hurt the premier show of the computer industry.

"Companies have to make their own decisions with regard to their own marketing programs on their own basis," said Suzanne Lonergan, spokeswoman for the Needham, Mass.-based show producer.

Based on a statement issued by Jason Chudnofsky, president and chief executive officer of ZD Comdex & Forums, a Softbank Comdex division, IBM's decision may be rooted in a dispute over next year's booth placement, not crowded conditions on the trade-show floor.

"Statements have appeared in the media over the last several days attributed to IBM and its divisions regarding their decision not to exhibit in Comdex Fall 1998," Chudnofsky said. "We are extremely surprised at these statements, especially in light of the promotional visibility IBM has given the impact and success of their participation in Comdex through a nationwide series of advertisements in major newspapers."

Chudnofsky then explained how IBM broke off talks with Comdex organizers after an unnamed competing exhibitor selected IBM's location on the trade-show floor. IBM chose a location, but wanted to change the booth configuration. The Comdex staff rejected the reconfiguration and suggested

alternatives, but IBM's authorizing executive needed to review the plan.

"While the situation was being reviewed with this executive, a company with a later booth selection number selected the booth under discussion," said Chudnofsky. "Upon being notified that the booth had been selected by another organization, the IBM team left the booth selection process without any further discussion of alternatives."

IBM's 16,000-square-foot two-level booth was one of the most visible displays of the 1997 show with a location in the main convention center hall near a main entrance and a concession area.

LANGUAGE: ENGLISH

LOAD-DATE: December 24, 1997

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December 26, 1997, Friday, ALL EDITIONS

SECTION: BUSINESS; Pg. 01E

LENGTH: 486 words

HEADLINE: Comdex has grown too big, IBM says;
But a dispute over its booth may have led it to skip the computer show.

BYLINE: FROM STAFF AND NEWS SERVICES

BODY:

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Booth dispute

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Comdex's spring show was held for many years at the Georgia World Congress Center, but Comdex

organizers last year decided to move to Chicago because state officials at the time hadn't made firm plans to expand the center.

The Legislature next year will be asked to approve $ 200 million for a 500,000-square-foot expansion of the 950,000-square-foot exhibit hall complex, which the local convention industry hopes will lure the spring Comdex show back to Atlanta.

Last spring's Comdex brought about 60,000 people to Atlanta, boosting the local economy by an estimated $ 112 million.

LOAD-DATE: December 27, 1997

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November 5, 1998, Thursday

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LENGTH: 1002 words

HEADLINE: COMDEX/Fall '98 to Become One of the Largest Pay-Per-View Streaming Media Events Ever

DATELINE: BOULDER, Colo.

BODY:
Nov. 5, 1998--

VStream Poised to Deliver First-Time Consumer Internet Access to the World's Largest Technology Event

Reaching new heights in Internet commerce, VStream Incorporated, a company redefining streaming for corporate communications, is set to rival pay-per-view records by streaming content for COMDEX/Fall '98 over the Web.

For the first time in the **history of COMDEX,** all aspects of the technology conference will be available to customers in an easy to access, streaming video format. By extending the value of the conference beyond the time-limited week of the actual event, customers can now expand their participation in the educational programming by accessing those sessions and speakers they couldn't see in Las Vegas in the convenience of their home or office.

"By offering consumers Internet access to COMDEX's hundreds of hours of keynote speeches and technology sessions, VStream has secured a place in history as provider of one of the largest pay-per-view streaming media events ever," said Paul Berberian, president of VStream. "This achievement not only validates streaming as a strategic communications tool, but also marks a new era for COMDEX -- for the first time ever, consumers will have the opportunity to experience this event in its entirety."

Each year, COMDEX/Fall presents the world's largest and most influential information technology event. The event, being held Nov. 16-20 in Las Vegas, will host more than 2,400 exhibiting companies, over 10,000 new product launches and 220,000 resellers and corporate decision makers.

The COMDEX/Fall '98 Conference will feature industry experts in over 100 conferences, focusing on real solutions to leverage technology investments, build a networking infrastructure, implement an Internet and intranet strategy, and other critical business areas.

This on-demand playback service provided by VStream will not be available prior to or during COMDEX/Fall '98. It will only be available on a subscription basis starting Dec. 1.

VStream built this unique COMDEX playback solution using Microsoft Windows Media Technologies, which provide: -0-

-- the highest-quality streaming media for the best user experience;
-- a comprehensive, easy-to-use platform for building streaming applications for business; and
-- a universal player for convenient access to the most multimedia content.

-0-

"VStream has been a leader in delivering streaming services with Windows Media Technologies for both Internet and intranet applications," said Gary Schare, Lead Product Manager, Microsoft Corp. "VStream offers Windows Media Technologies customers controlled, measurable delivery of audio and video coupled with outstanding 24-hour technical support."

Subscriptions

Subscriptions provide users access to all sessions of COMDEX/Fall '98's Technology Conference, e-Business Program and InFocus Program. Keynote, PowerPanel and SuperSessions are also included in the subscription price. Subscriptions are reasonably priced and based on the length of time the video content is available, ranging from one day to six months. Subscriptions may be renewed or extended at any time over the Web and include toll-free customer assistance and technical support to assure viewer satisfaction.

How to Register

Subscription registration began Oct. 28 at www.vstream.com/comdex. During COMDEX/Fall '98, interested parties can register at VStream and Microsoft's sales booths in the lobbies of the Hilton and Sands hotels or VStream's exhibit in the Las Vegas Convention Center. All registered users will receive an email reminder when the content is available for viewing on Dec. 1.

Technical Requirements

Users wishing to access COMDEX/Fall '98 on the Web will need to meet the following technical requirements: -0-

-- Computer with sound card and speakers
-- Minimum Internet access of 14.4 kbps for audio and 28.8 kbps for video
-- Microsoft Windows Media Player, available free at http://www.microsoft.com/windows/mediaplayer/download/default.asp

-0-

About VStream

VStream provides premier outsource services in streaming multimedia content over the Internet or corporate intranets. Founded in April 1997 and based in Boulder, VStream enables controlled and measurable broadcasting and on-demand access to video and audio information over the Internet and corporate intranets.

Unique features of VStream's service include vast capacity, superior reliability, controlled delivery, tracking mechanisms, and detailed reporting and billing procedures. For more information, call 800/VStream or visit www.vstream.com.

About ZD Events

ZD Events is the world's leading producer of information technology events, with products ranging from the IT industry's largest exhibitions to renowned educational programs, custom seminars and specialized vendor marketing programs. It brings together the high-profile, high-impact COMDEX and WINDOWS WORLD brands with the educational focus and depth of NetWorld+Interop, Seybold Seminars and other leading industry events.

ZD Events serves more than 5,000 exhibiting companies and two million attendees through over 50 events in 18 countries. These events have revolutionized the way computers are bought, sold and distributed. ZD Events is the events group of Ziff-Davis.

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