NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

NR 99-6

Washington, DC 20219

FOR IMMEDIATE RELEASE
January 28, 1999

Contact: Janis L. Smith (202) 874-5770

Remarks by
Julie L. Williams
Chief Counsel
Office of the Comptroller of the Currency
before the
Third Annual Race and Relations Conference
The Louisville and Jefferson County Human Relations Commission
Louisville, Kentucky
January 28, 1999

It's a pleasure to be here in one of the region's friendliest cities -- and, historically, among its most progressive. Louisville has long embraced policies that promote and protect fairness in everything from public accommodations to employment to the sale and rental of housing. This Commission -- and this conference -- reflect your city's leadership in making the goals of social justice and racial harmony a living reality.

The Office of the Comptroller of the Currency, known as the OCC, has also had a longstanding commitment to equal opportunity, in the form of a financial system that is accessible to all Americans. This was a part of the charge we received from Abraham Lincoln when the OCC was created as our nation's first regulatory agency back in 1863. Lincoln, the son of one cash-poor farmer and neighbor of many others in an unbanked community, understood from personal experience that the absence of financial services could be a formidable impediment to economic growth and opportunity. Since his time -- and especially in recent decades -- we at the OCC have worked hard to fulfill Lincoln's vision of a banking system that meets the financial needs of all of America's citizens, communities, and businesses, small and large.

We need not go back to Lincoln's time to understand the damage that can be done when those needs go unmet. Neighborhoods deprived of financial services and investment are neighborhoods in decline and distress. People who, through no fault of their own, are unable to secure reasonably-priced financing to buy a home, start a small business, or pay for higher education, are people whose talents, initiative, and faith may be lost to us forever -- a loss potentially as grievous for our society and economy as for the individuals themselves.

-more-

That is why the OCC has vigorously reaffirmed its commitment to ensuring that the national banking system is responsive to the full diversity of our financial needs. It's not only part of our original mission, but also -- as I'll explain later -- good business for banks today.

The Community Reinvestment Act is a very important part of this effort. As your program notes, CRA is an increasingly valuable tool for those dedicated to rebuilding America's communities. But that has not always been the case throughout CRA's 20-year history. At the outset and for many years thereafter, bankers and community activists were united by little more than the common conclusion that CRA didn't work. Today these same groups are united, instead, in economic development initiatives that are making a big difference in the lives of our people -- projects that have already pumped billions of new private-sector dollars into affordable housing, community development projects, and small businesses. CRA lending and investments have underwritten the expansion of African-American churches in Brooklyn, New York, the renovation of a 100-unit apartment complex in a disadvantaged neighborhood of my hometown of Washington, D.C., the provision of much-needed retail services in the Roxbury section of Boston, and the strengthening of small businesses through the Enterprise Development Center right here in Louisville.

So we can point with pride to the remarkable transformation of CRA from its troubled -- and many would say ineffective -- past into a more powerful and focused instrument for community renewal and expanded banking markets.

But how do we *explain* this transformation? I would like to think that sensible, responsive regulation has been a factor. In 1993, after evaluating literally thousands of public comments and holding dozens of public hearings, the OCC, along with the other federal banking agencies, implemented a comprehensive reform of the CRA regulations. We went through the CRA rules and tossed out dozens of provisions that simply had generated paperwork and administrative headaches for financial institutions. As a result, funds that would otherwise have been expended on the mechanics of compliance have become available for strengthening communities. When OCC examiners now visit a national bank to conduct a CRA exam, they focus not on the number of meetings it has held or the advertising copy it produces, but on the dollar value of the loans and investments it has actually made in its communities.

The revised regulation itself is still very much a work in progress. We continually reevaluate it in light both of our examination experiences and the public comments we receive. Such flexibility is critical in light of the rapid changes, structural and technological, currently taking place in the banking business -- changes that have significant CRA implications. For example, what kinds of new bank products qualify for community development consideration under CRA? And how do we define an institution's assessment area for CRA purposes? This was a relatively simple question when banks conducted all of their business out of brick and mortar offices. But it's not so simple when banks make loans or gather deposits over the Internet, as increasing numbers of them do.

Furthermore, we are keenly aware of the concerns that you and others may have over the trend toward consolidation in the banking business. This trend reached new heights in 1998, with the announcement of one big bank merger after another -- mergers that raise many important questions about the future of financial services in our country. What will the impact of so-called mega-mergers be on the communities served by the merging institutions? Will the loss of local ownership lead to a reduction in the local availability of financial services? Will a bank's commitment to the community suffer when its headquarters -- and most of its staff -- operate somewhere else? And will these giant financial institutions turn a deaf ear to the needs of small borrowers and retail customers and choose to focus their energies on customers of a size comparable to their own?

We will be watching closely to see what results actually come from these megamergers. For now, at least, there is some reason for optimism. The consolidation of financial institutions announced in the past year has led to announcements of significant new community lending and investment programs by the merging banks. For example, last year NationsBank and Bank of America announced a plan to make $180 billion in small business loans over a ten year period.

We are also working with the other banking regulatory agencies to clarify new issues that continue to crop up in connection with CRA implementation. To that end, we will soon publish a revised set of questions and answers on various aspects of CRA -- questions gleaned from our own compliance exams, from the institutions we regulate, and from groups and individuals such as yourselves. The issues covered range from the technical to the prosaic -- from offering new working definitions of "affordable housing" and "community development" to addressing the question of how examiners are to account for CRA loans when the borrower's address is a post office box. Do renewals and refinancings count toward CRA credit the same as the original loans? What about multiple originations to the same eligible business? And, in recognition of the link between economic opportunities and community development, shouldn't a bank's small business contracting program warrant CRA recognition when it is linked to the same bank's small business lending program?

The proposed answers to these often technical questions hardly qualify as light reading. But I believe that they provide important insight into the underlying philosophy and the practical complexities of administering CRA today -- insight that should be of value to everyone with an interest in the economic redevelopment of America.

Cooperation and understanding. Mutual self-interest and partnerships. Innovation and performance. These are perhaps not the chords you might expect a government regulator to strike. But they *are* the principles and imperatives that I think are most important about how we administer the CRA today and those that are critical if we are to achieve success.

And this, to me, may be the most significant change that has taken place in moving from the old CRA regime to the new. Although we have refined the process of CRA in the ways I have already mentioned, it is the new philosophy behind the regulation that is likely to have the greatest and most lasting positive impact on our communities and our country. It is a philosophy based on our evolving, dynamic, competitive markets and on contributions of the information revolution. In banking and elsewhere throughout our economy, business people are recognizing and capitalizing on opportunities previously blocked by old habits and stereotypes.

It used to be that bankers could afford to stick to the status quo because their traditional business was thriving. But today, bankers have little choice but to be more creative in seeking out new customers and new markets. The financial world has changed. Increasingly, conventional business borrowers tap the capital markets to obtain financing. Bankers face relentless competition for commercial and industrial loans, competition that yields increasing risk and diminishing returns for their traditional lending business. Middle and upper income consumers by the millions have abandoned their banks for the products of Wall Street. Foreign-owned banks proliferate on our shores. Of necessity, then, bankers, aided by new information technology, are taking a fresh look at long-slighted markets -- which are in fact solid growth markets -- for consumer loans, affordable mortgages, small business financing, and community development.

You and your communities need financial services. More than ever before, those whose business it is to provide those services also need you. And they are acting on it. The possibilities for profitable partnerships between America's bankers and our communities have never been more promising.

With this shift in business orientation has come a subtle but meaningful shift in the proper role of government. First, let me assure you that, whatever else we do, we will never stop working to identify and eradicate market irrationalities and injustices, such as discrimination based on race, gender, or other illegal considerations, as long as such practices exist. And today, we see these issues manifested in more complex and subtle forms than outright discriminatory practices. That is why, just last month, we revised our fair lending examination procedures to include new procedures specifically directed to steering, redlining, and discrimination in commercial lending, as well as in the underwriting and pricing of loan products. And, as always, when we are able to substantiate abuses, we will bring them to the attention of the Department of Justice for prosecution.

But the emerging model for bank regulation increasingly involves the removal of obstacles that interfere with the efficient operation of the marketplace. And, increasingly, we are reaching out to serve as facilitators between financial providers and consumers to help both parties bridge longstanding gulfs of misunderstanding, misinformation, and mistrust, to help them to recognize the mutually beneficial relationships that are possible for them.

One area in which we have devoted considerable effort -- and, I believe, done considerable good -- is in the field of small business lending. Nothing is more crucial to our nation's continued economic vitality and opportunity than the health of its small business sector -- the source of innovation and employment for millions of Americans. And there is no place where innovation and employment is more needed than in our disadvantaged communities.

Unfortunately, small business formation has lagged in the very places where we need it most. For example, African-Americans continue to be underrepresented in the business population. And the businesses they do own generate lower revenues and profits and employ fewer people than the average small business. That's because black-owned businesses are underrepresented among the most capital-intensive -- and remunerative -- segments of the business economy: construction, finance and insurance, wholesaling and manufacturing. One crucial element, then, of our national strategy to improve our neediest communities must be to support initiatives that provide needed credit access and equity for minority small businesses.

The financial regulatory agencies have addressed this need in various ways. For example, we have used CRA to help us collect small business loan origination data, to enable us to track our progress and identify areas requiring special attention. And, in keeping with our new emphasis on outreach and education, more than a year ago the OCC launched a project we call Banking on Minority Business -- a project designed to bring bankers and minority small business people together, to help close the communications gap that so long kept them apart, and to develop and exchange ideas that can make small business partnerships work. Hundreds of national bankers, minority small business owners and people who aspire to that status, and business development officials have attended these meetings in cities across the country. Many mutually profitable

-more-relationships have been formed as a result.

We look forward to continuing to help break down barriers to mutually beneficial private and public sector partnerships to bring a better future within reach for more Americans. I hope it will be possible to come back to Louisville soon and have one of our banker/community group outreach meetings here.

I began by talking about Abraham Lincoln and the special significance he has for the OCC. The dilemma of race was the central preoccupation of Lincoln's life. As president, he led this nation into a bloody civil war to resolve it. Yet Lincoln understood that true equality could not be achieved through force of arms. He understood that economic opportunity was the key to building a truly color blind society. That was why he created the national banking system. We at the OCC continue to honor his charge.

Lincoln put us on the path we walk today. We have some distance to go before we achieve his vision -- the same vision that inspires your work here in Louisville.

Thank you

# # #

The OCC charters, regulates and examines approximately 2,600 national banks and 66 federal branches and agencies of foreign banks in the United States, accounting for 58 percent of the nation's banking assets. Its mission is to ensure a safe, sound and competitive national banking system that supports the citizens, communities and economy of the United States.

BACKGROUND FOR LARRY STEIN
BRIEFING FOR CONGRESSIONAL STAFF ON CRA
January 28, 1999

Program:

- Steve Harris introduces you and other WH and Treasury staff present.
- You speak 5-10 minutes to emphasize importance of issue to President.
- Rick Carnell, representing Treasury, will emphasize the priority that Secretary Rubin gives to the issue and briefly review proposals that Gramm is likely to advance and concerns that each of those provisions would raise.

What Steve Harris Wants to Hear You Say:

- This issue is of great personal interest and importance to the President and First Lady.
- Democrats should not let themselves be charmed by the "innocuous" sounding proposals of Senator Gramm -- if past is prologue, they will strike at the heart of the effectiveness of this statute which we judge to have made dramatic differences in the availability of capital in underserved areas (urban and rural) throughout the US -- as Rick will describe.
- The President has issued veto threats before on bills that would weaken CRA and would not hesitate to do so again.
- Challenges to CRA have been contentious and partisan in the past. Democratic unity is important. Would be grateful if, before any Democratic member agrees to sign on to one of Senator Gramm's amendments, he talk to me and give us a change to work together.

Background on Possible Amendments (Rick Will Cover These Issues):

Last year, Gramm offered two alternative approaches to CRA in the Financial Modernization bill. Sarbanes considers acceptance of either approach defeat, although the Administration would have a harder time opposing the second than the first.

- **Option 1 -- Changes to Eliminate the Opportunity for Extortion:**
  Specifically, this approach includes two amendments:

  (a) the **"anti-extortion amendment"** -- a prohibition on a bank making a contribution of any kind or establishing any "quota or set aside" for employment, purchases, sales, or other activity (other than loans) in connection with a review of the bank's CRA compliance with the intent to influence the person to refrain from providing information or to influence the content of the information;

- While we may eventually agree to some version of this (but should not say so now), the deterrent effect of criminal penalties and the broad drafting of the language could deter much legitimate efforts to encourage institutions to make greater commitments to their communities.

(b) the **"safe harbor amendment"**-- providing that any institution with a satisfactory CRA rating during its regular exam will be deemed to be in compliance for all purposes until its next exam (meaning that there would be no opportunity to challenge a merger or branch application on the basis of CRA noncompliance) .

- This would require community groups to focus on protesting the regular exams of each institution rather than concentrating their efforts on those seeking major approvals, spreading them thin. Moreover, these ratings are old and the merger may change the context for the review (e.g., new activities) and raise issues that wouldn't be raised during the regular exam. In addition, during exams, they sample various areas in which the bank works, so that some communities do not get attention and would loose an opportunity to raise issues at merger time. We think this would significantly weaken the process.

- **Option 2 -- "CRA neutrality"** -- The current version of the bill provides that, before a bank holding company is permitted to affiliate with another firm (e.g. a securities or insurance firm) it must be found to be well capitalized, well managed, and have satisfactory CRA compliance. By neutrality, Gramm means eliminating the third element of the test.

    - Sarbanes staff, and the community activists, argue strenuously that if CRA compliance is irrelevant to the ability of a bank to expand into new financial business lines, we diminish the importance of CRA because these new powers are the future of banking. We are in a more difficult position here, however, because the Administration's own bill did not require CRA compliance for new bank powers. We can't issue veto threats on this, although we want to express concern about the impact of this change without signaling less concern here than elsewhere.

In addition, there are other amendments that are sometimes talked about. The most frequently noted is:

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far small percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far smaller percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

BACKGROUND FOR LARRY STEIN
BRIEFING FOR CONGRESSIONAL STAFF ON CRA
January 28, 1999

Program:

- Steve Harris introduces you and other WH and Treasury staff present.
- You speak 5-10 minutes to emphasize importance of issue to President.
- Rick Carnell, representing Treasury, will emphasize the priority that Secretary Rubin gives to the issue and briefly review proposals that Gramm is likely to advance and concerns that each of those provisions would raise.

What Steve Harris Wants to Hear You Say:

- This issue is of great personal interest and importance to the President and First Lady.
- Democrats should not let themselves be charmed by the "innocuous" sounding proposals of Senator Gramm -- if past is prologue, they will strike at the heart of the effectiveness of this statute which we judge to have made dramatic differences in the availability of capital in underserved areas (urban and rural) throughout the US -- as Rick will describe.
- The President has issued veto threats before on bills that would weaken CRA and would not hesitate to do so again.
- Challenges to CRA have been contentious and partisan in the past. Democratic unity is important. Would be grateful if, before any Democratic member agrees to sign on to one of Senator Gramm's amendments, he talk to me and give us a change to work together.

Background on Possible Amendments (Rick Will Cover These Issues):

Last year, Gramm offered two alternative approaches to CRA in the Financial Modernization bill. Sarbanes considers acceptance of either approach defeat, although the Administration would have a harder time opposing the second than the first.

- **Option 1 -- Changes to Eliminate the Opportunity for Extortion:**
  Specifically, this approach includes two amendments:

  (a) the **"anti-extortion amendment"** -- a prohibition on a bank making a contribution of any kind or establishing any "quota or set aside" for employment, purchases, sales, or other activity (other than loans) in connection with a review of the bank's CRA compliance with the intent to influence the person to refrain from providing information or to influence the content of the information;

- While we may eventually agree to some version of this (but should not say so now), the deterrent effect of criminal penalties and the broad drafting of the language could deter much legitimate efforts to encourage institutions to make greater commitments to their communities.

(b) the **"safe harbor amendment"**-- providing that any institution with a satisfactory CRA rating during its regular exam will be deemed to be in compliance for all purposes until its next exam (meaning that there would be no opportunity to challenge a merger or branch application on the basis of CRA noncompliance) .

- This would require community groups to focus on protesting the regular exams of each institution rather than concentrating their efforts on those seeking major approvals, spreading them thin. Moreover, these ratings are old and the merger may change the context for the review (e.g., new activities) and raise issues that wouldn't be raised during the regular exam. In addition, during exams, they sample various areas in which the bank works, so that some communities do not get attention and would loose an opportunity to raise issues at merger time. We think this would significantly weaken the process.

- **Option 2 -- "CRA neutrality"** -- The current version of the bill provides that, before a bank holding company is permitted to affiliate with another firm (e.g. a securities or insurance firm) it must be found to be well capitalized, well managed, and have satisfactory CRA compliance. By neutrality, Gramm means eliminating the third element of the test.

    - Sarbanes staff, and the community activists, argue strenuously that if CRA compliance is irrelevant to the ability of a bank to expand into new financial business lines, we diminish the importance of CRA because these new powers are the future of banking. We are in a more difficult position here, however, because the Administration's own bill did not require CRA compliance for new bank powers. We can't issue veto threats on this, although we want to express concern about the impact of this change without signaling less concern here than elsewhere.

In addition, there are other amendments that are sometimes talked about. The most frequently noted is:

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far small percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far smaller percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

BACKGROUND FOR LARRY STEIN
BRIEFING FOR CONGRESSIONAL STAFF ON CRA
January 28, 1999

Program:

- Steve Harris introduces you and other WH and Treasury staff present.
- You speak 5-10 minutes to emphasize importance of issue to President.
- Rick Carnell, representing Treasury, will emphasize the priority that Secretary Rubin gives to the issue and briefly review proposals that Gramm is likely to advance and concerns that each of those provisions would raise.

What Steve Harris Wants to Hear You Say:

- This issue is of great personal interest and importance to the President and First Lady.
- Democrats should not let themselves be charmed by the "innocuous" sounding proposals of Senator Gramm -- if past is prologue, they will strike at the heart of the effectiveness of this statute which we judge to have made dramatic differences in the availability of capital in underserved areas (urban and rural) throughout the US -- as Rick will describe.
- The President has issued veto threats before on bills that would weaken CRA and would not hesitate to do so again.
- Challenges to CRA have been contentious and partisan in the past. Democratic unity is important. Would be grateful if, before any Democratic member agrees to sign on to one of Senator Gramm's amendments, he talk to me and give us a change to work together.

Background on Possible Amendments (Rick Will Cover These Issues):

Last year, Gramm offered two alternative approaches to CRA in the Financial Modernization bill. Sarbanes considers acceptance of either approach defeat, although the Administration would have a harder time opposing the second than the first.

- **Option 1 -- Changes to Eliminate the Opportunity for Extortion:**
  Specifically, this approach includes two amendments:

  (a) the **"anti-extortion amendment"** -- a prohibition on a bank making a contribution of any kind or establishing any "quota or set aside" for employment, purchases, sales, or other activity (other than loans) in connection with a review of the bank's CRA compliance with the intent to influence the person to refrain from providing information or to influence the content of the information;

- While we may eventually agree to some version of this (but should not say so now), the deterrent effect of criminal penalties and the broad drafting of the language could deter much legitimate efforts to encourage institutions to make greater commitments to their communities.

(b) the **"safe harbor amendment"**-- providing that any institution with a satisfactory CRA rating during its regular exam will be deemed to be in compliance for all purposes until its next exam (meaning that there would be no opportunity to challenge a merger or branch application on the basis of CRA noncompliance) .

- This would require community groups to focus on protesting the regular exams of each institution rather than concentrating their efforts on those seeking major approvals, spreading them thin. Moreover, these ratings are old and the merger may change the context for the review (e.g., new activities) and raise issues that wouldn't be raised during the regular exam. In addition, during exams, they sample various areas in which the bank works, so that some communities do not get attention and would loose an opportunity to raise issues at merger time. We think this would significantly weaken the process.

- **<u>Option 2 -- "CRA neutrality"</u>** -- The current version of the bill provides that, before a bank holding company is permitted to affiliate with another firm (e.g. a securities or insurance firm) it must be found to be well capitalized, well managed, and have satisfactory CRA compliance. By neutrality, Gramm means eliminating the third element of the test.

    - Sarbanes staff, and the community activists, argue strenuously that if CRA compliance is irrelevant to the ability of a bank to expand into new financial business lines, we diminish the importance of CRA because these new powers are the future of banking. We are in a more difficult position here, however, because the Administration's own bill did not require CRA compliance for new bank powers. We can't issue veto threats on this, although we want to express concern about the impact of this change without signaling less concern here than elsewhere.

In addition, there are other amendments that are sometimes talked about. The most frequently noted is:

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far small percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far smaller percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

BACKGROUND FOR LARRY STEIN
BRIEFING FOR CONGRESSIONAL STAFF ON CRA
January 28, 1999

Program:

- Steve Harris introduces you and other WH and Treasury staff present.
- You speak 5-10 minutes to emphasize importance of issue to President.
- Rick Carnell, representing Treasury, will emphasize the priority that Secretary Rubin gives to the issue and briefly review proposals that Gramm is likely to advance and concerns that each of those provisions would raise.

What Steve Harris Wants to Hear You Say:

- This issue is of great personal interest and importance to the President and First Lady.
- Democrats should not let themselves be charmed by the "innocuous" sounding proposals of Senator Gramm -- if past is prologue, they will strike at the heart of the effectiveness of this statute which we judge to have made dramatic differences in the availability of capital in underserved areas (urban and rural) throughout the US -- as Rick will describe.
- The President has issued veto threats before on bills that would weaken CRA and would not hesitate to do so again.
- Challenges to CRA have been contentious and partisan in the past. Democratic unity is important. Would be grateful if, before any Democratic member agrees to sign on to one of Senator Gramm's amendments, he talk to me and give us a change to work together.

Background on Possible Amendments (Rick Will Cover These Issues):

Last year, Gramm offered two alternative approaches to CRA in the Financial Modernization bill. Sarbanes considers acceptance of either approach defeat, although the Administration would have a harder time opposing the second than the first.

- **Option 1 -- Changes to Eliminate the Opportunity for Extortion:**
  Specifically, this approach includes two amendments:

  (a) the **"anti-extortion amendment"** -- a prohibition on a bank making a contribution of any kind or establishing any "quota or set aside" for employment, purchases, sales, or other activity (other than loans) in connection with a review of the bank's CRA compliance with the intent to influence the person to refrain from providing information or to influence the content of the information;

- While we may eventually agree to some version of this (but should not say so now), the deterrent effect of criminal penalties and the broad drafting of the language could deter much legitimate efforts to encourage institutions to make greater commitments to their communities.

(b) the **"safe harbor amendment"**-- providing that any institution with a satisfactory CRA rating during its regular exam will be deemed to be in compliance for all purposes until its next exam (meaning that there would be no opportunity to challenge a merger or branch application on the basis of CRA noncompliance) .

- This would require community groups to focus on protesting the regular exams of each institution rather than concentrating their efforts on those seeking major approvals, spreading them thin. Moreover, these ratings are old and the merger may change the context for the review (e.g., new activities) and raise issues that wouldn't be raised during the regular exam. In addition, during exams, they sample various areas in which the bank works, so that some communities do not get attention and would loose an opportunity to raise issues at merger time. We think this would significantly weaken the process.

- **Option 2 -- "CRA neutrality"** -- The current version of the bill provides that, before a bank holding company is permitted to affiliate with another firm (e.g. a securities or insurance firm) it must be found to be well capitalized, well managed, and have satisfactory CRA compliance. By neutrality, Gramm means eliminating the third element of the test.

  - Sarbanes staff, and the community activists, argue strenuously that if CRA compliance is irrelevant to the ability of a bank to expand into new financial business lines, we diminish the importance of CRA because these new powers are the future of banking. We are in a more difficult position here, however, because the Administration's own bill did not require CRA compliance for new bank powers. We can't issue veto threats on this, although we want to express concern about the impact of this change without signaling less concern here than elsewhere.

In addition, there are other amendments that are sometimes talked about. The most frequently noted is:

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far small percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far smaller percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

CRA Fact Sheet

What is CRA?

- Congress enacted CRA in 1977 to combat the practice of "red-lining" communities by publicly-insured banks and thrifts.

- CRA encourages banks and thrifts to meet the credit needs of their communities, consistent with safe and sound banking practices.

How Does CRA work?

- Federal bank and thrift supervisors assess financial institution's performance: loans made, services provided, and investments in their communities. The CRA regulation provides a streamlined examination for banks and thrifts with assets under $250 million.

- Banks and thrifts make their CRA ratings public. The public has an opportunity to comment on CRA performance before the start of a scheduled examination.

What are the benefits of CRA to communities?

- CRA is working to restore healthy markets in distressed communities.

- 1997 Home Mortgage Disclosure Act data show that lending to minority and low income borrowers is on the rise. For example, since 1993, the number of home mortgage loans to African Americans increased by 58 percent, to Hispanics by 62 percent, and to low and moderate income borrowers by 38 percent, well above the overall market.

- In 1997, commercial banks made $18.6 billion in community development investments.

- Since 1992, nonprofit community organizations estimate that the private sector has pledged over $1 trillion in loans going forward for community development.

What are the benefits of CRA to small businesses?

- Small business lending is an integral part of bank CRA compliance. Banks are assessed on their effort to support small businesses under the lending, investment and services tests. For the first time, large banks are reporting small business loan data by census tract. In 1997, banks and thrifts subject to CRA made 2.6 million small business loans for a total of $159 billion, two-thirds of all small business loans made that year. More than one-fifth of those loans were made to small businesses in low and moderate income communities.

What are the benefits of CRA to banks?

- CRA is good banking business. "Businesses that learn how to meet [community reinvestment] demand profitably, and integrate it into their business lines, will gain a tremendous competitive advantage." Richard Rosenberg, former Chairman and CEO, BankAmerica Corporation.

- "CRA-related activities can help develop new markets, potentially profitable business, and improve a bank's public image." Lawrence Lindsey, former Governor, Federal Reserve System.

THE WHITE HOUSE

Office of the Press Secretary
(New York, New York)

For Immediate Release

January 15, 1999

REMARKS BY THE PRESIDENT TO THE WALL STREET PROJECT CONFERENCE

Windows on the World Restaurant
World Trade Center
New York, New York

2:15 P.M. EST

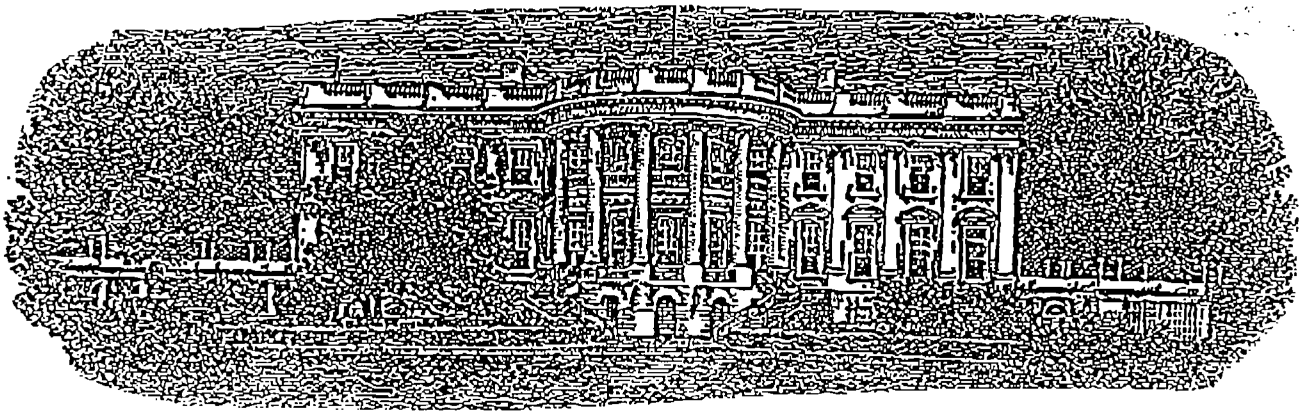
• • •

In the past five years -- I'd like to say one thing about the banking community that I think is important -- we've worked very hard to both streamline and strengthen the Community Reinvestment Act. It was also under fire, has been under fire, still is under fire by some. That Community Reinvestment Act has been on the books for more than 20 years, but 95 percent of all the financial commitments made under the law in the last 20 years have been made in the last five years. That's more than $1 trillion in long-term commitment to invest in people. (Applause.)

And I might say, our banks are more profitable than they were 10 years ago. This is not bad for business, this is good for business. I guess the presence of the business leaders and the Wall Street people here among the previous speakers ought to make that general point. This is not a welfare program, it is not a charity program. We are not asking anybody to do anything we do not think they will make money out of; and if they can't make money out of it we can't ask them to do it. What we're trying to do is to create an environment and create the conditions in which it is more likely that more people will take a chance. We believe they will be rewarded by the chances they take. (Applause.)

• • •

THE WHITE HOUSE
OFFICE OF LEGISLATIVE AFFAIRS



FAX COVER SHEET

TO: Sarah Rosen

FROM: Roger Ballentine
Special Assistant to the President for Legislative Affairs

DATE:

No. Of Pages including cover: 4

PHONE:

FAX: 6-2223

Phone:(202)456-6493

Fax:(202)456-6468

MESSAGE:

"BARRM%DOM3.DOPO6" <Michael.Barr @ MS01.DO.treas.sprint.com>
01/08/99 12:54:27 PM

Record Type: Record

To: Sarah Rosen/OPD/EOP

cc:
Subject: Race meeting -Reply

Date: 01/08/1999 01:42 pm (Friday)
From: Michael Barr
To: EX.MAIL("Sarah_Rosen@opd.eop.gov")
Subject: Race meeting -Reply

Any word?

Also, you and Orszag had asked for the figure for CRA commitments since CRA's passage, which is $1.05 trillion, of which over a trillion is in the last six years. (Figures current as of Dec. 31, 1998)

CLINTON ADMINISTRATION STATEMENTS ON THE APPAREL INDUSTRY PARTNERSHIP

"Today's agreement on fight sweatshop practices is an historic step toward reducing sweatshop labor around the world and will give American consumers confidence that the clothes they buy are made under decent and humane working conditions. I applaud the apparel industry, labor unions, nongovernmental organizations, and consumer groups who answered the challenge I laid out two years ago to find cooperative ways to reduce sweatshop labor.

"This agreement is only the beginning. We know that sweatshop labor will not vanish overnight. While is agreement is an historic step, we must measure our progress by how we change and improve the livilihoods of apparel workers herein the United States and around the world. That is why I urge more companies to join this effort and follow these strict rules of conduct."

-- **President Bill Clinton**, 11/3/98

"The preliminary agreement reached Monday by the members of the Apparel Industry Parntership brings us so much closer to making real and lasting change in this industry, and to relegate garment sweatshops from today's headlines into tomorrow's history books. The agreement represents an historic partnership between apparel and footwear companies, human rights groups, and others who have agreed for the very first time to work together as equal partners to make significant improvements in labor conditions in garment factories across the United States and around the world.

"I applaud the members of the Apparel Industry Partnership for their tenacity and fine work, and encourage others in the garment industry to join with them in this critical and ground breaking effort."

-- **U.S. Secretary of Labor Alexis M. Herman**, 11/3/98

"President Clinton is committed to making our global economy work for working people by promoting core labor rights for workers. Private voluntary efforts like the Apparel Industry Partnership are one way to move forward on that agenda. Millions of workers around the world would see significant improvement in working conditions if this agreement goes forward and gains momentum. There is no higher standard that companies are

THE WHITE HOUSE

Office of the Press Secretary
(New York, New York)

For Immediate Release

January 15, 1999

REMARKS BY THE PRESIDENT TO THE WALL STREET PROJECT CONFERENCE

Windows on the World Restaurant
World Trade Center
New York, New York

2:15 P.M. EST

. . .

In the past five years -- I'd like to say one thing about the banking community that I think is important -- we've worked very hard to both streamline and strengthen the Community Reinvestment Act. It was also under fire, has been under fire, still is under fire by some. That Community Reinvestment Act has been on the books for more than 20 years, but 95 percent of all the financial commitments made under the law in the last 20 years have been made in the last five years. That's more than $1 trillion in long-term commitment to invest in people. (Applause.)

And I might say, our banks are more profitable than they were 10 years ago. This is not bad for business, this is good for business. I guess the presence of the business leaders and the Wall Street people here among the previous speakers ought to make that general point. This is not a welfare program, it is not a charity program. We are not asking anybody to do anything we do not think they will make money out of; and if they can't make money out of it we can't ask them to do it. What we're trying to do is to create an environment and create the conditions in which it is more likely that more people will take a chance. We believe they will be rewarded by the chances they take. (Applause.)

. . .

DEPARTMENT OF THE TREASURY
TREASURY NEWS
OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
Remarks as prepared for delivery
January 15, 1999

**TREASURY SECRETARY ROBERT E. RUBIN
REMARKS BEFORE THE WALL STREET PROJECT CONFERENCE
NEW YORK, NEW YORK**

• • •

Despite the fact that financial markets in the United States are today the most innovative, the broadest and deepest in the world, we still have a severe shortage of financial institutions and credit to create housing and jobs in our inner cities and distressed rural communities. Treasury has been bringing its broad expertise in capital markets to address these problems.

As a reflection of the importance we place on these issues, we have established, for the first time in the history of the Treasury Department, an office specializing in these issues, as well as on tax incentives for development in distressed areas, the Office of Community Development Policy.

Through that office – which has accomplished a lot in its relatively brief life – we are focusing on three fundamental challenges going forward.

First, we must protect the Community Reinvestment Act, which expands access to capital from mainstream financial institutions. We have greatly improved CRA by streamlining its regulations so that they focus on performance, not paperwork. CRA has been an enormous success. Over the last six years, according to non-profit community groups, banks and thrifts have made commitments to provide over $1 trillion in capital to low income communities. Home Mortgage Disclosure Act data shows that since 1993, home loans to African-Americans have increased by 58 percent, to Hispanics by 62 percent, to Asians by 29 percent and to low and moderate income borrowers by 38 percent, all well above the overall market. CRA is working. We believe strongly that it is important to maintain CRA and we are opposed to any efforts to weaken CRA.

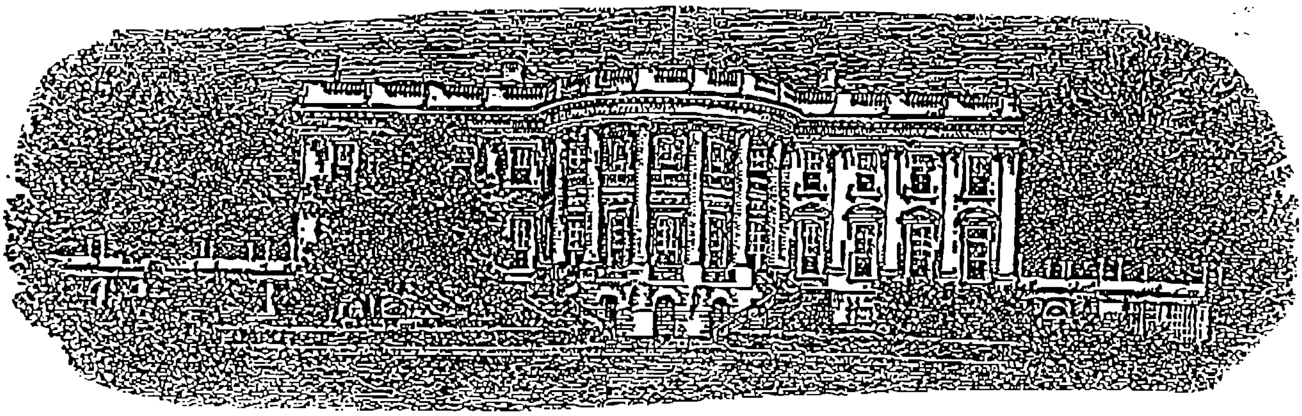
• • •

- **<u>A Small Bank Exemption:</u>** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far smaller percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **<u>Bank Holding Company CRA Obligations</u>**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

THE WHITE HOUSE
OFFICE OF LEGISLATIVE AFFAIRS



FAX COVER SHEET

TO: Sarah Rosen

FROM: Roger Ballentine
Special Assistant to the President for Legislative Affairs

DATE:

No. Of Pages including cover: 4

PHONE:

FAX: 6-2223

Phone:(202)456-6493

Fax:(202)456-6468

MESSAGE:

FAX

Comptroller of the Currency
Administrator of National Banks

DATE: January 28 1999

TO: Harold Rosen

COMPANY: NBC

FAX NO.: (202) 456-2223

PHONE NO.: ______

NO. OF PAGES (INCLUDING COVER SHEET): 2

MESSAGE: ______

FROM: Amy Friend

CITY: ______

FAX NO.: ______

PHONE NO.: 874-5200

SENDER, PLEASE CHOOSE ONE OF THE FOLLOWING:

_____ Return originals to contact person

_____ Will pick up originals

_____ Destroy originals

THE DOCUMENTS ACCOMPANYING THIS FACSIMILE MAY CONTAIN NONPUBLIC INFORMATION WHICH IS THE PROPERTY OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) OR ENTITY NAMED ABOVE. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISCLOSURE, COPYING, DISTRIBUTION, OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS INFORMATION IS STRICTLY PROHIBITED AND MAY BE SUBJECT TO PENALTIES PROVIDED IN SECTION 641 OF TITLE 18, UNITED STATES CODE. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE AT THE NUMBER LISTED ABOVE TO ARRANGE FOR RETURN OF THE DOCUMENTS TO THE SENDER. THANK YOU.

Summary of OCC's Handling of CRA Issues and Applications

Since January 1997, OCC has followed the procedures contained in the Comptroller's Corporate Manual Public Involvement Booklet for handling CRA issues in national bank corporate and licensing applications.

When the OCC receives an application to which CRA applies, the agency reviews the most recent composite and component CRA ratings, public comments on the application filed with OCC during the comment period, previous comments filed with OCC (e.g., in connection with announcement of upcoming examination), comments filed with OCC after the end of comment period if reviewing such comments does not result in an undue delay of a decision on the application, and comments filed with other agencies (typically the Federal Reserve) on related applications if the comments address the CRA performance of national bank parties to the application pending before the OCC. The OCC also obtains recent CRA performance information from the Examiner-in-Charge of the bank and the appropriate Community Reinvestment and Development Specialist.

The OCC processes CRA-protested applications on a non-expedited review basis. When applications are removed from expedited review, the agency advises the bank and the protestant(s). OCC may also remove applications from expedited review for other CRA issues not triggered by the comment record. As a general matter, the OCC rarely holds public hearings or public meetings. Rather, in response to a request for a public hearing, OCC offers to meet with the requestor (often at the requestor's location) to ensure a full understanding of the concerns of the public. When an application is filed and protested, OCC remains neutral on banks meeting with protestants or entering into commitments with respect to a protest.

OCC allows banks the opportunity to respond to adverse comments. In investigating the protestant's allegations and the bank's representations, the OCC often sends examiners to the bank to review bank records. OCC investigates CRA issues that have not previously been directly resolved satisfactorily (in an exam or a prior corporate decision), regardless of whether those issues were brought to the OCC's attention by public comments, the most recent exam findings, or by other means. If OCC is investigating a protest that questions a CRA exam rating or conclusion, OCC uses examiners who were not involved in the original rating.

OCC executives and senior management in headquarters direct the handling of CRA issues in applications. Issues are reviewed by an interdepartmental team comprised of officials from all interested units. OCC makes a decision on an application when the record is complete and does not wait for the bank and protestants to resolve their issues. When OCC decides on an application that has generated adverse comments or that otherwise raises CRA issues, the decision document describes the issues and the OCC's investigation and findings. OCC makes the decision statement public and advises commenters of the decision.

When warranted, OCC will require commitments to improve performance as part of the decision on the application or will impose enforceable conditions to ensure improved CRA performance.

BACKGROUND FOR LARRY STEIN
BRIEFING FOR CONGRESSIONAL STAFF ON CRA
January 28, 1999

Program:

- Steve Harris introduces you and other WH and Treasury staff present.
- You speak 5-10 minutes to emphasize importance of issue to President.
- Rick Carnell, representing Treasury, will emphasize the priority that Secretary Rubin gives to the issue and briefly review proposals that Gramm is likely to advance and concerns that each of those provisions would raise.

What Steve Harris Wants to Hear You Say:

- This issue is of great personal interest and importance to the President and First Lady.
- Democrats should not let themselves be charmed by the "innocuous" sounding proposals of Senator Gramm -- if past is prologue, they will strike at the heart of the effectiveness of this statute which we judge to have made dramatic differences in the availability of capital in underserved areas (urban and rural) throughout the US -- as Rick will describe.
- The President has issued veto threats before on bills that would weaken CRA and would not hesitate to do so again.
- Challenges to CRA have been contentious and partisan in the past. Democratic unity is important. Would be grateful if, before any Democratic member agrees to sign on to one of Senator Gramm's amendments, he talk to me and give us a change to work together.

Background on Possible Amendments (Rick Will Cover These Issues):

Last year, Gramm offered two alternative approaches to CRA in the Financial Modernization bill. Sarbanes considers acceptance of either approach defeat, although the Administration would have a harder time opposing the second than the first.

- **Option 1 -- Changes to Eliminate the Opportunity for Extortion:**
  Specifically, this approach includes two amendments:

  (a) the **"anti-extortion amendment"** -- a prohibition on a bank making a contribution of any kind or establishing any "quota or set aside" for employment, purchases, sales, or other activity (other than loans) in connection with a review of the bank's CRA compliance with the intent to influence the person to refrain from providing information or to influence the content of the information;

- While we may eventually agree to some version of this (but should not say so now), the deterrent effect of criminal penalties and the broad drafting of the language could deter much legitimate efforts to encourage institutions to make greater commitments to their communities.

(b) the **"safe harbor amendment"**-- providing that any institution with a satisfactory CRA rating during its regular exam will be deemed to be in compliance for all purposes until its next exam (meaning that there would be no opportunity to challenge a merger or branch application on the basis of CRA noncompliance) .

- This would require community groups to focus on protesting the regular exams of each institution rather than concentrating their efforts on those seeking major approvals, spreading them thin. Moreover, these ratings are old and the merger may change the context for the review (e.g., new activities) and raise issues that wouldn't be raised during the regular exam. In addition, during exams, they sample various areas in which the bank works, so that some communities do not get attention and would loose an opportunity to raise issues at merger time. We think this would significantly weaken the process.

- **Option 2 -- "CRA neutrality"** -- The current version of the bill provides that, before a bank holding company is permitted to affiliate with another firm (e.g. a securities or insurance firm) it must be found to be well capitalized, well managed, and have satisfactory CRA compliance. By neutrality, Gramm means eliminating the third element of the test.

    - Sarbanes staff, and the community activists, argue strenuously that if CRA compliance is irrelevant to the ability of a bank to expand into new financial business lines, we diminish the importance of CRA because these new powers are the future of banking. We are in a more difficult position here, however, because the Administration's own bill did not require CRA compliance for new bank powers. We can't issue veto threats on this, although we want to express concern about the impact of this change without signaling less concern here than elsewhere.

In addition, there are other amendments that are sometimes talked about. The most frequently noted is:

- **A Small Bank Exemption:** This provision would exempt from CRA requirements institutions below various size thresholds. Some of the tests proposed would exempt 85% of the institutions (although a far small percentage of the assets of the banking system). We have issued a veto threat on a bill with this provision before.

In addition, Sarbanes himself agreed last year to a provision that limited somewhat the effectiveness of CRA under the new bill.

- **Bank Holding Company CRA Obligations**: Under the original House bill, a holding company with expanded bank powers had an ongoing obligation to comply with CRA and, if their ratings were unsatisfactory, the regulators had the power to force them to divest of the non-banking activities. That provision was dropped, although Sarbanes argues that they still have ongoing obligations and other penalties (like cease and desist orders and civil money penalties) would still apply. (This view is subject to dispute.)

- OpEds
- Scenarios

- Dallas Mayor -
- Conf. Mayors - Jan 17-21
strong statement CRA

Gramlich

DRAFT 12/5

Index for CRA Debates in 106th Congress

I. **What is CRA and What are a Bank's Obligation Under the Law?**
   A. 12 U.S.C. 2901 et seq.
   B. 12 C.F.R. parts 25, 228, 345, 563e

II. **Legislative History**
   A. Title VIII of the Housing and Community Development Act of 1977
      1. Senator Proxmire Floor Statement-- rationale for CRA
      2. Committee Reports

   B. Revisions to CRA
      1. 1989 FIRREA Amendments
      2. 1991 FDICIA Amendments
      3. 1995 Revisions to Regulations

III. **The Continuing Need for CRA**
   A. *Executive summary of series of studies and articles discussing lack of access to credit in certain communities; disparity in bank lending; disinvestment in low/mod communities.*

IV. **CRA Has Been Successful**
   A. Statistical evidence of increased lending and development in low/mod communities.

   B. CRA success stories
      1. Urban Success Stories
         a. Philadelphia Federal Reserve (1995) study
         b. *Other success stories*
      2. Rural Success Stories
         a. Firstar's Family Farm Reinvestment Program
         b. *Other success stories*

   C. Statements in support of CRA by banking industry leaders and regulators
      1. Bankers
         a. Richard Rosenberg, Former Chairman and CEO of Bank of America
         b. Nora Brownell, Senior Vice President, Corporate Affairs, Meridian Bank Corporation
         c. Gail Snowden, Community Banking Group, BankBoston
         d. Marci Mills, VP and National Sales Manager, BankAmerica

e. James H. Carr, Senior Vice President, Fannie Mae Foundation
f. Mario Antoci, Chairman and CEO, American Savings

2. Federal and State Bank Regulators
    a. Eugene Ludwig, former U.S. Comptroller
    b. Alan Morris, Commissioner of Banks for Massachusetts
    c. Fed Chairman Greenspan
    d. Edward M. Gramlich, Federal Reserve Board of Governors
3. Clinton Administration Officials
    a. President Clinton
    b. Treasury Secretary Rubin
4. Republican Supporters of CRA
    a. Jack Kemp
5. Academicians
    a. Michael Porter, Harvard Business School Professor
6. Consumer groups

V. **Arguments Against CRA**

A. **CRA serves as a vehicle for extortion and bribery**

1. Banks are coerced into making commitments to CRA protestors to avoid substantial delay or denial of applications.
    a. Response: Few banks applications are denied on CRA grounds.
    b. Response: Delay in processing of a protested application is nominal.
    c. Response: Most applications are processed under expedited treatment.
    d. Response: Pledges made by banks to CRA advocacy groups cannot be the basis for the approval of an application. Rather, regulators look at a bank's past performance in meeting the credit needs of all its communities.
    e. Response: Regulators do not monitor or enforce the implementation of private agreements between banks and community groups.
    f. Statistics on Nature and Number of Protests Filed (1989-1998)

2. The vast majority of bank expanded activity applications are protested.
    a. Response: Fewer than 1% of applications are protested.

3. Banks regularly are required to make concessions to CRA protestors that have nothing to do with lending to their communities (i.e. direct payment for advocacy group operating expenses and hiring quotas).

a. Response: Vast majority of pledges by banks are for lending to communities.

b. Response: Hiring goals and plans are not included in CRA agreements between banks and community groups. On rare occasions in the past, hiring goals were announced simultaneously with bank lending commitments.

b. Statistics on Nature and Number of Settlements (1989-1998).

i) How often do settlements include direct payments to protest groups (for operating expenses)?

ii) Elements of a typical settlement.

B. **CRA is government mandated credit allocation**

1. Response: CRA was written specifically to avoid credit allocation by giving banks the ability to choose the loans and investments that they could make.

2. Response: Alan Greenspan has stated that CRA is not credit allocation.

C. **CRA imposes significant regulatory burden--particularly on small banks**

1. Response: 1995 revisions significantly reduced the regulatory burdens associated with CRA compliance.

2. Response: Few small banks have been subject of CRA protests.

3. Response: Bush Administration OMB study of regulatory burdens did not list CRA as one of the most burdensome regulations.

D. **CRA forces banks to make risky loans**

1. Response: The language of CRA specifically requires that banks make loans that are commensurate with safe and sound banking practices. *See* 12 USC 2901(a)(3) and 12 CFR 228.21(d).

2. Response: Empirical data suggests that CRA loans are as safe, if not safer, than conventional loans.

a. 1993 Study by Woodstock Institute concluded that single-family CRA loans had substantially lower delinquency rates than conventional loans.

b. Bank of America's Neighborhood Advantage Program showed delinquency rates 25 percent lower than their conventional counterparts.

c. Under NatWest's Home Mortgage Opportunity Loan Program, loans held in their portfolio for six years showed delinquency rates significantly below the delinquency rates of their entire loan portfolio.

d. Federal Reserve Board of Chicago Study (1996) showed CRA loans as profitable or at least break-even.

e. Federal Reserve Bank of Kansas Study--98% of banks found that their CRA activities were profitable.

f. Larry Lindsey--no bank has failed because of CRA obligations.

E. **CRA places banks at a competitive disadvantage**

1. Response: Banks receive the benefit of deposit insurance and access to the discount window.

VI. **Past Amendments Offered to Weaken CRA**

A. Small bank exemption

B. Anti-extortion amendment

C. Safeharbor amendment

VII. **CRA Protests**

A. Background:

1. CRA protests are a part of the larger system of public comment
2. CRA role in bank expansion applications--1991 FDICIA Amendments

B. Statements by bank regulators that protests are useful.

C. Not all bank commitments are made in response to CRA Protests.

1. BankAmerica Corp.'s commitment announced in October 1997 was made without onus of community group challenges.
2. Star Banc Corps' pledge in February 1998 did not result from community group challenges.
3. *List of other bank commitments*

NEW COMMUNITY REINVESTMENT ACT NUMBERS

According to the National Community Reinvestment Coalition (NCRC), the private sector has pledged more than $1 trillion going forward in loans to distressed communities – and more than 95 percent of these financial commitments have been made since 1992.

- There have been 23 times more financial commitments to distressed communities from banks in the past 5½ years than in the previous 15 years <u>combined</u>.
- Lending commitments under the CRA have increased 69-fold from the pre-1993 era -- from an average of $2.6 billion per year between 1977 and 1992 to about $180 billion per year in the past 5½ years.

12/31/98

FINANCIAL COMMITMENTS TO DISTRESSED COMMUNITIES UNDER CRA	
1977-1992:	$42.3 billion
1992-1998:	$991.7 billion
Total since 1977:	**$1.034 trillion**
% Since 1992:	**96%**

1.05

FINANCIAL COMMITMENTS TO DISTRESSED COMMUNITIES UNDER CRA (Average Financial Commitments Per Year)	
1977-1992:	$2.6 billion per year
1992-1998:	$180 billion per year
Past 5 Years vs. Previous 15 Years	**69-Fold Increase**

NOTE: These numbers include financial commitments to distressed communities by financial institutions with merger approvals still pending.

If Only Approved Mergers Are Included:

- Under CRA, $411 billion in financial commitments have been made to low-income communities with 90 percent -- $369 billion -- coming since 1992.

CRA 12/14

- Gramm
- Schumer } on

Boxer - d6
Edwards - on
Bryan - on
Johnson - on } -

Crapo
Bunning
Santorum

Extortion - CRA generally
Abuses on merger review

Senate Banking Democrats - payments to CGps - consulting servic[e]
files letter, then withdraws -
or reaches agrmt not

focus on structural reforms
- prohibit explicitly to make cash payments
if protesting applicant - can't get $
- safe harbor -
if satisfactory - no scrutiny
if departure from practice since exam
still CRA review)

Rich Marsico
NYU Law Professor
manual

Dems - reviewing how process works

Shumer - sell Gramm a hot ball last year ??

CRA regs - application processing deadlines - diminished leverage
- lodging - only in light of actual experience of how things work
Don't have uniform practice - OCC w/ agree - ot / pa[...]

1. Good Faith Mod
2. Prevent Bad Fa Mod
3. [...]

like IRS hearings

Division on CRA - more likely to be against Ein Mod

reasonable CRA reform help pass CRA bill →

House Side: Roukema -
Hold hearings -
-Small bank exception

Reg Relief -

POTUS/VP → event - Positive CRA -
Feb -

Burden hours - 6-7 fold
grossly understated geography requirement

Small bank - marginally higher

THE WHITE HOUSE

SARAH ROSEN
SENIOR ADVISOR
NATIONAL ECONOMIC COUNCIL
(202) 456-2223 (Fax)

TO: Steve Harris, Marty Gruenberg
224-2080

PHONE: 224-7391

FAX:

DATE: 1/29/99 PAGES TO FOLLOW: 1

COMMENTS: The President's remarks today to the U.S. Conf. of Mayors were his strongest yet, asking them to work to protect CRA. We will include these remarks with the others we gave you yesterday in letters to Committee Democratic members.

If this fax is incomplete or you need to give clearance information for a meeting, please call Sonyia Matthews at 456-5351. Thank you.