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FINANCIAL MODERNIZATION: WHAT'S IN IT FOR LOCAL COMMUNITIES?

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Michael S. Bylsma[1]

INTRODUCTION

I am pleased to be able to participate in this important symposium and to be on such a distinguished panel. My remarks today will focus on how the Gramm-Leach-Bliley Financial Services Modernization Act's ("GLBA") changes to the Community Reinvestment Act ("CRA") affect local communities.[2]

I. COMMENTS ON GLBA — BENEFITS AND SIGNIFICANCE

GLBA is the most important piece of banking legislation to pass in more than 60 years. By repealing and reforming the Glass-Steagall Act, which created rigid barriers between (1) the insurance and banking industries, and (2) the securities and banking industries, GLBA greatly expands the ability of financial institutions to offer new products and services to their customers.[3] GLBA authorizes national banks to carry out expanded financial activities, such as sponsoring mutual funds, through a new kind of subsidiary called a "financial subsidiary."[4] It allows eligible bank holding companies and foreign banks to engage in securities, insurance, and other activities that are "financial in nature or incidental to a financial activity" if they

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[2] *See* Community Reinvestment Act of 1977, 12 U.S.C. § 2901 (1977) ("CRA"). *See also* Gramm-Leach-Bliley Financial Services Modernization Act of 1999, Pub. L. No. 106-102, 113 Stat. 1338 (1999) (codified at 15 U.S.C. 6801 *et seq.*) ("GLBA").

[3] *See* S. REP. NO. 106-44, at 6 (1999).

[4] *See* GLBA, tit. I, sec. 121; 12 U.S.C. § 24a; Remarks by John D. Hawke, Jr., Comptroller of the Currency before a Seminar for National Bank CEOs, Dallas, Texas, Mar. 16, 2000, at 2 (on file with the Journal of Human Rights).

become "financial holding companies."[5] GLBA should provide American consumers with better, cheaper, and more, financial services and help protect their financial information.[6]

II. GLBA AND THE CRA

A. Legislative Background

Despite the other provisions of GLBA that are of importance to the banking industry and consumers, the CRA provisions received some of the greatest attention. In 1998, differences over the role of the CRA in financial modernization prevented the bill, that had passed the House of Representatives and the Senate Banking Committee, from going to the Senate floor.[7] The Clinton Administration, members of Congress, and community organizations fought hard to ensure that financial modernization did not come at the expense of the CRA or America's least privileged communities.

As with most laws, the CRA provisions of GLBA represented a compromise between those who thought the CRA should have no bearing on financial institutions' abilities to pursue expanded financial activities, and those who hoped that the new law would greatly expand the application of the CRA. In my view, GLBA will not significantly alter the CRA or the positive role it plays in increasing access to credit among low- and moderate-income persons in this country.

B. Overview of the CRA

Congress passed the CRA in 1977 to encourage banks and thrifts to increase their lending and services to low- and moderate-

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[5] *See* GLBA, tit. I, sec. 103; 12 U.S.C. 1843(k); 66 Fed. Reg. 400 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225) *see also* 12 C.F.R. § 225.81.

[6] *See* Remarks by John D. Hawke, Jr., Comptroller of the Currency, before the Consumer Federation of America, Dec. 2, 1999, at 2 (on file with the Journal of Human Rights); H.R. CONF. REP. NO. 106-434, at 4 (1999).

[7] *See, e.g.*, S. REP. NO. 106-44, at 6 (1999).

income persons and areas in their communities, consistent with safe and sound banking practices.[8] The CRA requires federal banking regulators to evaluate an insured depository institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods.[9] To do so, federal banking regulators use a series of tests that focus generally on the financial institution's lending, service, and investment activities.[10] Regulators use different tests for large and small banks that are designed to reflect differences in institutions' assets and capacities.[11] After each CRA examination, the federal banking regulator assigns the institution one of four ratings: "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the institution's performance under the tests set forth in the CRA regulations.[12]

A financial institution's CRA rating is important because federal regulators are required to take it into account when they consider the institution's "application for a deposit facility."[13] An application for a deposit facility includes an application by an institution to a federal banking regulator to establish a branch, relocate a main office or branch, merge with or acquire another insured depository institution, or receive a banking charter.[14] As part of the evaluation of a financial institution's application for a deposit facility, agency procedures allow public comment on the institution's record in fulfilling its obligations under the CRA.[15]

A financial institution's CRA rating and CRA record also play an important role in its public relations. Federal banking regulators

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[8] *See* 12 U.S.C. § 2901(a)(3).

[9] *See* 12 U.S.C. § 2903(1).

[10] *See* 12 C.F.R. §§ 25.22–24 (OCC); 12 C.F.R. §§ 228.22–24 (FRB); 12 C.F.R. §§ 345.22–24 (FDIC); 12 C.F.R. § 563e.22–24 (OTS).

[11] *See* 12 C.F.R. § 26.26 (OCC); 12 C.F.R. § 228.26 (FRB); 12 C.F.R. § 345.26 (FDIC); 12 C.F.R. § 563e.26 (OTS).

[12] *See* 12 U.S.C. §§ 2906(b)(1)(A), 2906(b)(2); 12 C.F.R. § 25.28 (OCC); 12 C.F.R. § 228.28 (FRB); 12 C.F.R. § 345.21 (FDIC); 12 C.F.R. § (OTS).

[13] *See* 12 U.S.C. § 2902(3); 12 C.F.R. § 25.29 (OCC); 12 C.F.R. § 228.29 (FRB); 12 C.F.R. § 345.29 (FDIC); 12 C.F.R. § 563e.29 (OTS).

[14] 12 C.F.R. § 25.29(a) (OCC); 12 C.F.R. § 228.29(a) (FRB); 12 C.F.R. § 345.29(a) (FDIC); 12 C.F.R. § 563e.29(a) (OTS).

[15] 12 C.F.R. § 25.29(c) (OCC); 12 C.F.R. § 228.29(c) (FRB); 12 C.F.R. § 345.29(c) (FDIC); 12 C.F.R. § 563e.29(c) (OTS).

are required to make CRA ratings public.[16] In addition, agency regulations require financial institutions to keep a public file that includes information about their CRA activities, a copy of all public comments on their CRA record, and a copy of the public section of their most recent CRA performance evaluation.[17]

C. GLBA's Four CRA Provisions

GLBA has four main provisions concerning the CRA. First, GLBA reduces the frequency of CRA examinations for small banks.[18] Second, GLBA makes the CRA a factor in determining whether national banks, bank holding companies, and foreign banks can participate in expanded financial activities.[19] Third, GLBA's CRA sunshine provisions require banks and community organizations to disclose their CRA agreements publicly.[20] Parties to CRA agreements also must report annually on the use or disbursement of funds under each agreement.[21] Fourth, GLBA requires the Federal Reserve Board to report to Congress on the performance and profitability of financial institutions' CRA lending and the Treasury Department to report to Congress on the effect of GLBA on the provision of services as intended by the CRA.[22]

With that summary, I'll now discuss each of these changes.

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[16] *See* 12 U.S.C. § 2906(b); 12 C.F.R. § 25.28 (OCC); 12 C.F.R. § 228.28(FRB); 12 C.F.R. § 345.28 (FDIC); 12 C.F.R. § 563e.28 (OTS).

[17] *See, e.g.,* 12 C.F.R. § 25.43 (OCC); 12 C.F.R. § (FRB); 12 C.F.R § 345.43 (FDIC); 12 C.F.R. § 563e.43 (OTS).

[18] GLBA, tit. VII, sec. 712 (adding section 809 to the CRA); 12 U.S.C. 29.

[19] GLBA, tit. I, sec. 103(b) (adding section 804(c) to the CRA); 12 U.S.C. 29; Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan 3, 2001) (to be codified at 12 C.F.R. pt. 225.84); Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12905 (to be codified at 12 C.F.R. pt. 5) (Mar. 10, 2000).

[20] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y (2000).

[21] *See* 12 U.S.C. § 1831y (2000)

[22] GLBA, tit. VII, sec. 713, 715.

III. THE CRA PROVISIONS OF GLBA

A. Small Bank Provisions

1. Overview

Under GLBA, federal banking regulators will examine small banks less frequently for their CRA compliance than in the past. Examination schedules for small banks will be based on the ratings those banks achieved in their most recent CRA examinations. GLBA defines a small bank as a financial institution with assets "of not more than $250 million."[23] If a small bank received a CRA rating of "outstanding" in its last CRA examination, it will be subject to CRA examinations not more frequently than once every five years.[24] If a small bank received a CRA rating of "satisfactory" in its last CRA examination, it will be subject to CRA examinations not more frequently than once every four years.[25]

The federal banking regulators may remove banks from this reduced examination schedule for two reasons. First, the regulators may examine a small bank more or less frequently if the bank has filed an application for a deposit facility.[26] Second, they may examine a bank more frequently for "reasonable cause."[27] An example of a reasonable cause could be if there has been a substantial change in the bank's operations affecting the CRA. Generally, federal regulators conduct CRA examinations for all other banks at least once every three years, or more frequently, depending on the institutions' compliance risks.[28]

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[23] GLBA, tit. VII, sec. 712 (adding section 809 to the CRA).

[24] GLBA, tit. VII, sec. 712 (adding section 809(a)(1) to the CRA).

[25] GLBA, tit. VII, sec. 712 (adding section 809(a)(2) to the CRA).

[26] GLBA, tit. VII, sec. 712 (adding section 809(b) to the CRA).

[27] GLBA, tit. VII, sec. 712 (adding section 809(c) to the CRA).

[28] *See* 12 C.F.R. pt. 228 (FRB); 12 C.F.R. pt. 34 (FDIC); S. REP. NO. 106-44, at 56 (1999).

2. Legislative History and Analysis

The small bank provisions reflect a significant legislative compromise. The Senate's financial modernization bill exempted from the CRA banks and thrifts with total assets of up to $100 million that were also located in non-metropolitan areas.[29] More than 76 percent of all rural banks have assets less than $100 million and would have been covered by the proposed exemption.[30] In 1997–1998, 92 percent of institutions receiving "substantial noncompliance" CRA ratings were institutions with less than $100 million in assets.[31]

GLBA's small bank provisions, however, do not exempt any banks from the CRA. GLBA focuses regulatory attention on those small banks whose records of complying with the CRA are the poorest. By easing the burden of CRA examinations on small banks that have attained ratings of "satisfactory" or better, GLBA's small bank provisions will increase incentives for banks with low CRA ratings to improve their record of community reinvestment. Because GLBA defines a small bank more broadly than the proposed exemption — with an asset cap of $250 million as opposed to $100 million — and does not limit its coverage to rural banks, GLBA's small bank provisions will cover more banks. As a result, the impact will be more wide-ranging.

B. Expansion of Financially Related Activities and CRA

1. Overview

GLBA makes the CRA a factor in determining a financial institution's ability to engage in the expanded financial activities the law permits. In this context, GLBA's requirements apply somewhat differently for national banks and for financial holding companies and their insured depository institution subsidiaries. In the case of national banks, GLBA directs the Office of the Comptroller of the

[29] *See* S. REP. NO. 106-44, at 2–3, 17–18 (1999).

[30] *See* S. REP. NO. 106-44, at 61 (1999) (citing Federal Deposit Insurance Corporation information).

[31] *See id.* at 77.

Currency to prevent a national bank from beginning any additional expanded financial activity, or directly or indirectly acquiring control of a company engaged in any such activity, if the bank or any of its insured depository institution affiliates received a CRA rating of less than "satisfactory" in its most recent CRA examination.[32] This rating requirement does not apply to newly-chartered banks that have not yet received CRA ratings (and that are not the successors of banks that have received CRA ratings).[33] It also does not apply to special purpose banks that do not receive CRA ratings.

Even after a national bank has a financial subsidiary, if the bank or one of its insured depository institution affiliates subsequently receives a CRA rating of less than "satisfactory," there are a number of consequences. First, the bank may not initiate any additional activity that, under GLBA, must be pursued through a financial subsidiary.[34] And, the bank may not acquire control of, or establish an additional financial subsidiary, or acquire the assets of, an additional company that is or would be a financial subsidiary. This restriction applies even if the bank plans to conduct the same activities in the new company as it currently conducts in the existing financial subsidiary.[35]

As for bank holding companies, GLBA directs the Federal Reserve Board to prevent a bank holding company from becoming a financial holding company, which is eligible to engage in expanded activities, if any of its subsidiary depository institutions has received a CRA rating of less than "satisfactory" at its last CRA examination.[36] This provision has one main exception. The Federal Reserve Board will not apply the CRA rating requirement in considering a bank holding company's eligibility to become a financial holding company,

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[32] GLBA, tit. I, sec. 103(a); 12 U.S.C. § 1843 (l)(2). *See also* 65 Fed. Reg. 12905, 12907 (Mar. 10, 2000); 12 C.F.R. § 5.39(i); Revised Statutes 5136A(a)(7).

[33] Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12905, 12907 (Mar. 10, 2000) (to be codified at 12 C.F.R. § 5.39(i)).

[34] Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12907 (Mar. 10, 2000) (to be codified at 12 C.F.R. § 5.39(i)).

[35] Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12907 (Mar. 10, 2000) (to be codified at 12 C.F.R. § 5.39(i)).

[36] 12 U.S.C. § 2903(c)(1) (2000); Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 415 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.82).

if within the 12 months before it elects to become a financial holding company the existing holding company has acquired a subsidiary depository institution that has received a CRA rating of less than "satisfactory."[37] Two conditions attach to this. First, the bank holding company must have submitted an "affirmative plan" to improve its subsidiary's CRA rating to at least "satisfactory."[38] Second, the appropriate federal regulator must have approved the plan.[39]

Once a financial holding company exists, it must comply with GLBA's CRA requirements before it can pursue any additional financial activities authorized by GLBA.[40] These standards are the same as those that apply to a national bank establishing, or expanding the activities of, a financial subsidiary.[41] If any insured depository institution controlled by the company has received a CRA rating of less than "satisfactory" in its most recent examination, the company may not (1) begin any additional financial activity, or (2) acquire control of a company engaged in any expanded financial activities permitted by GLBA.[42] These prohibitions apply until each of the company's insured depository institution subsidiaries has received a rating of a least "satisfactory" at its most recent CRA examination.[43]

Under two conditions the CRA rating requirement does not prevent a financial holding company from making additional investments as part of certain merchant banking, investment banking,

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[37] 12 U.S.C. § 2903(2); Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 416 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225).

[38] 12 U.S.C. § 2903(2)(A); Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 416 (Jan. 3, 2001) (to be codified at 12 C.F.R. § 225.82(e)(i)).

[39] 12 U.S.C. § 2903(2)(B); Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 416 (Jan. 3, 2001) (to be codified at 12 C.F.R. § 225.82(e)(i)).

[40] Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.84).

[41] GLBA, tit. I, sec. 103(a); 12 U.S.C. § 1843 (l)(2). *See also* Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12905, 12907 (Mar. 10, 2000) (to be codified at 12 C.F.R. § 5.39(i)).

[42] GLBA, tit. I, sec. 103(a); 12 U.S.C. § 1843 (l)(2). *See also* Financial Subsidiaries and Operating Subsidiaries, 65 Fed. Reg. 12905, 12907 (Mar. 10, 2000) (to be codified at 12 C.F.R. § 5.39(i)); Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.84).

[43] Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.84).

or insurance company investment activities. First, the company must have been lawfully engaged in the merchant banking, investment banking, or insurance company investment activity before the time that any of its insured depository institutions received less than a "satisfactory" rating under the CRA.[44] Second, the Federal Reserve Board must not have prohibited or limited the merchant banking, investment banking, or insurance company investment activities.[45]

2. Legislative History and Analysis

The issue of tying CRA to expanded financial activities was a major sticking point in the legislative process. The Senate's financial modernization bill did not link a national bank or bank holding company's CRA rating in any way to its ability to take on new activities.[46] The House bill, in contrast, contained this requirement.[47]

GLBA's CRA rating requirements will ensure that financial institutions continue to meet their CRA obligations as they pursue new and expanded financial activities. In this way, GLBA ensures that financial institutions that do not meet their obligations under the CRA will not be able to take advantage of the business benefits of expanded activities that financial modernization offers.

C. CRA Sunshine

1. Overview

GLBA's sunshine provisions require full, public disclosure of CRA agreements between financial institutions and non-governmental entities such as community organizations.[48] They also impose annual reporting requirements on all parties to CRA agreements.[49] The

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[44] Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.84).

[45] Bank Holding Companies and Change in Bank Control, 66 Fed. Reg. 400, 417 (Jan. 3, 2001) (to be codified at 12 C.F.R. pt. 225.84).

[46] H.R. CONF. REP. NO. 106-434, at 152 (1999).

[47] H.R. CONF. REP. NO. 106-434, at 152 (1999).

[48] *See* 12 U.S.C. § 1831y(a) (2000).

[49] *See* 12 U.S.C. § 1831y(b) (2000); 12 U.S.C. § 1831y(c) (2000).

federal banking regulators were directed to prescribe regulations requiring procedures reasonably designed to ensure and monitor compliance with the sunshine provisions.[50]

a. Covered agreements

The sunshine provisions apply to an agreement that is in writing, is "made pursuant to or in connection with" the fulfillment of the CRA, and provides for payments or grants of more than $10,000 per year or loans of more than $50,000 per year.[51] GLBA defines fulfillment of the CRA as "a list of factors that the appropriate federal banking agency determines have a material impact on the agency's decision to approve or disapprove an application for a deposit facility or to assign a CRA rating to an insured depository institution."[52] The sunshine provisions also apply to "a group of substantively related contracts" that are "made pursuant to or in connection with" the fulfillment of the CRA and that, when combined, meet the financial thresholds.[53]

b. Exceptions

The sunshine provisions do not cover individual mortgage loans, loans made at rates not substantially below market rates, or loans that are not made for re-lending to other parties.[54] They also exempt any agreement that a financial institution enters into with a non-governmental entity or person who has not commented on, testified about, discussed with, or otherwise contacted the institution, concerning the CRA.[55]

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[50] GLBA, tit. VII, sec. 711; 12 U.S.C. §1831y(h)(1) (2000). Final regulations implementing the sunshine provisions were issued by the Office of the Comptroller of the Currency, Federal Reserve Board, Office of Thrift Supervision, and Federal Deposit Insurance Corporation on December 21, 2000. *See* 66 Fed. Reg. 2052 (Jan. 10, 2001).

[51] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(1)(A) (2000).

[52] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(2)(i) (2000).

[53] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(1)(A)(ii) (2000).

[54] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(2)(B) (2000).

[55] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(2)(B)(iii) (2000).

c. Reporting requirements

A financial institution must report annually to its federal regulator on the fees, payments, or loans it makes to or receives from other parties to a covered agreement and on the terms and conditions of these payments, fees, or loans.[56] The annual report also must include aggregate data on the loans, investments, and services each party provides under a covered agreement.[57]

A non-governmental entity that is party to a CRA agreement must provide the federal regulator of the financial institution that also is a party with an accounting of how it has used the funds it received under the agreement.[58] The accounting must include a detailed, itemized list of how the funds were used, including compensation, administrative expenses, travel, entertainment, and consulting and professional fees.[59] In the Conference Report, Congress instructed the federal banking regulators to minimize the regulatory burden on reporting parties by allowing, for instance, a community organization to fulfill its reporting obligation by submitting its annual audited financial statement or its federal income tax return.[60]

d. Compliance

GLBA's CRA sunshine provisions include provisions relating to compliance with the law by parties to CRA agreements.[61] If a person diverts funds from a CRA agreement for personal financial gain, the federal banking regulator may: (i) require repayment of funds received under the agreement, and/or (ii) prohibit the person from participating in any CRA agreement for up to and including ten years.[62] The law does not provide for agencies to enforce CRA agreements.[63]

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[56] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(e)(1)(b)(1) (2000).
[57] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(b)(2) (2000).
[58] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(c) (2000).
[59] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(c)(3) (2000).
[60] H.R. CONF. REP. NO. 106-434, at 179 (1999).
[61] 12 U.S.C. § 1831y(f) (2000).
[62] GLBA, tit. VII, sec. 711; 12 U.S.C. § 1831y(f)(B) (2000).
[63] 12 U.S.C. § 1831y(g) (2000).

2. Legislative History and Analysis

Congress added the CRA sunshine provisions in May 1999,[64] and although these provisions do place new burdens on financial institutions and community organizations that enter into CRA agreements, they fall short of the changes that were considered in earlier proposals. The bill reported by the Senate Banking Committee in April 1999, for example, provided that a bank that had achieved a "satisfactory" rating three years in a row would be considered to be "in compliance with the CRA."[65] It would have limited public comment on a bank's application for a deposit facility to comments containing substantial verifiable evidence that the bank was out of compliance with the CRA or else would not remain in compliance after the transaction.[66]

The CRA provisions ultimately adopted have a different focus, of course. On the whole, the new requirements should provide the public with more information about CRA activities in their communities, discourage agreements being made for purposes that are vague and ill-defined, and help ensure that funds committed or received under these agreements are accounted for.

D. CRA Studies

1. Overview

Finally, GLBA requires the Federal Reserve Board and the Secretary of the Treasury to report to Congress on specific issues relating to the CRA. GLBA directs the Federal Reserve Board, in consultation with the Chairmen and ranking members of the House and Senate Banking Committees, to study the performance and profitability of financial institutions' CRA lending and issue a report on its findings.[67] GLBA requires the study to focus on default rates,

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[64] Sen. Phil Gramm, *Of Financial Services Modernization*, CONG. PRESS RELEASES (May 10, 1999).

[65] S. REP. NO. 106-44, at 32 (1999).

[66] S. REP. NO. 106-44, at 32 (1999).

[67] GLBA, tit. VII, sec. 713.

delinquency rates, and the profitability of CRA loans.[68] The Federal Reserve Board issued its report in July 2000.[69]

In addition, GLBA requires the Secretary of Treasury, in consultation with the federal banking agencies, to study the extent to which adequate services are being provided as intended by the CRA, including services to low- and moderate-income neighborhoods and persons, as a result of the enactment of GLBA and to issue a final report by November 12, 2002.[70] As the Conference Report explains, Congress intended the Secretary to use the data in the baseline report to measure changes that had occurred by the end of the two-year reporting period.[71] Under GLBA, Treasury's report should contain any recommendations that the Secretary of the Treasury considers appropriate for administrative and legislative action affecting institutions covered by the CRA.[72]

2. Legislative History and Analysis

The requirement for the Federal Reserve Board to prepare a study on CRA lending was added in Conference.[73] The Senate's bill required no CRA-related studies, while the House bill only required the Treasury study.[74] Ideally, the Federal Reserve Board and Treasury studies will provide the information needed to help financial institutions better address the credit needs of low- and moderate-income people and neighborhoods in the U.S., but also likely could be the focus of Congressional hearings and, possibly, legislation.

CONCLUSION

In conclusion, GLBA's CRA provisions followed legislative debates over the appropriate relationship between financial

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[68] *Id.*

[69] Federal Reserve Board, *The Performance and Profitability of CRA-Related Lending*, July 17, 2000.

[70] GLBA, tit. VII, sec. 715.

[71] H.R. CONF. REP. NO. 106-434, at 180–81 (1999).

[72] GLBA, tit. VII, sec. 715(b)(2).

[73] H.R. CONF. REP. NO. 106-434, at 180 (1999).

[74] H.R. CONF. REP. NO. 106-434, at 180 (1999).

modernization and the CRA. The CRA provisions are compromise provisions. While they do not expand or contract the CRA as far as advocated in the debates, they nonetheless ensure that the CRA will play a role in the expanded financial activities permitted by GLBA and in helping to meet the credit needs of our local communities.