

## 1 TITLE 38: FINANCIAL INSTITUTIONS

## 2 CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

3  
4 PART 190

## 5 ILLINOIS CREDIT UNION ACT

6  
7 SUBPART A: GENERAL PROVISIONS8  
9 Section

10	190.2	Definitions
11	190.5	Credit Union Service Organizations
12	190.10	Field of Membership Procedures
13	190.15	Civil Penalty
14	190.20	Hearings
15	190.25	Regulatory Examination Consistency and Due Process
16	190.30	Cease and Desist Procedures
17	190.40	Removal or Suspension Procedures
18	190.50	Fees
19	190.60	General Accounting Procedures
20	190.70	Loan Loss Accounting Procedures
21	190.80	Use of Electronic Data Processing
22	190.90	Fixed Asset Investments
23	190.100	Classes of Share and Special Purpose Share Accounts
24	190.110	Share Drafts
25	190.120	Bond and Insurance Requirements
26	190.130	Verification of Share and Loan Accounts
27	190.140	Real Estate Lending
28	190.150	Reverse Mortgage (Repealed)
29	190.160	Lending Limits – Consumer Loans
30	190.165	Business Loans
31	190.170	Group Purchasing
32	190.180	Investments
33	190.185	Investment in "Other Financial Institutions"
34	190.190	Liquidation
35	190.200	Conversion of Charter
36	190.210	Reimbursement for Financial Records
37	190.220	Registration of Out of State Credit Unions

38  
39 SUBPART B: HIGH RISK HOME LOANS40  
41 Section

42	190.500	Definitions
43	190.505	Applicability of Rule

44	190.510	Good Faith Requirements
45	190.515	Fraudulent or Deceptive Practices
46	190.520	Prohibited Refinances
47	190.525	Negative Amortization
48	190.530	Negative Equity
49	190.535	Balloon Payments
50	190.540	Financing of Certain Points and Fees
51	190.545	Financing of Single Premium Insurance Products
52	190.550	Lending Without Due Regard to Ability to Repay
53	190.555	Verification of Ability to Repay
54	190.560	Payments to Contractors
55	190.565	Counseling Prior to Perfecting Foreclosure
56	190.570	Mortgage Awareness Program
57	190.575	Offer of Mortgage Awareness Program
58	190.580	Third Party Review

#### SUBPART C: PAYDAY LOANS

62	Section	
63	190.600	Definitions
64	190.601	Purpose and Scope
65	190.605	Applicability of Rule
66	190.610	Issuance of Payday Loans by Credit Unions
68	190.APPENDIX A	Estimated Monthly Income and Expenses Worksheet
69	190.APPENDIX B	Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

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1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 37 Ill. Reg. 12450, effective July 16, 2013; amended at 38 Ill. Reg. 19910, effective October 17, 2014; amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

### Section 190.2 Definitions

For purposes of the Illinois Credit Union Act and this Part, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise.

"Act" means the Illinois Credit Union Act [205 ILCS 305].

"Credit union" means a credit union chartered under the Illinois Credit Union Act, or, as the context permits, under the Federal Credit Union Act or the laws of any state.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions. As provided in Section 8(1) of the Act, the Director shall oversee the functions of the Division and report to the Secretary with respect to the Director's exercise of any of the rights, powers and duties vested by law in the Secretary under the Act or this Part.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"GAAP" or "generally accepted accounting principles" means U.S. Generally Accepted Principles promulgated by the Financial Accounting Standards Board (see <http://www.fasb.org>).

"NCUA" means the National Credit Union Administration.

"Net worth" means retained earnings, as defined under GAAP, and secondary capital. Net worth does not include the allowance for loan losses account.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

"Secondary capital" means a secondary capital account or other form of non-share account, including without limitation a debt instrument, subject to the following conditions:

The maturity or the account shall not be less than three years and the account shall not be redeemable prior to maturity or the expiration of a minimum withdrawal notice period of three years.

The account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

The account holder's claim against the credit union must be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

Funds in the account, including interest accrued and paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. In lieu of being paid into the account, interest may be paid directly to the account holder or into a separate account from which the account holder may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time losses are realized.

The account may not be pledged or provided by the account holder as security on a loan or obligation with the credit union or any other party.

In the event of liquidation of the credit union, the accounts will, to the extent they are not needed to cover losses at the time of liquidation, be paid out to the account holder.

"Paid-in and unimpaired capital" or "unimpaired capital" means shares as defined in Section 1.1 of the Act.

"Person" or "persons" means individuals and bodies politic and corporate, including without limitation corporations, limited liability companies, general partnerships, limited partnerships and joint ventures; unless, from the context and facts, the intention is plain to apply only to individuals. Persons who reside in or

live in a geographical area include non-natural persons located within the geographical area.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or a person authorized by the Secretary, the Act or this Part to act in the Secretary's stead. As provided in Section 8(l) of the Act, all references in the Act or this Part to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or the Act to assume responsibility for the oversight of the functions of the Department relating to the regulatory supervision of credit unions under the Act and this Part.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any of the several territories and possessions of the United States. When capitalized, the term "State" generally means the State of Illinois.

"Surplus" means undivided earnings.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant to Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published biennially by the Appraisal Standards Board of The Appraisal Foundation, 1155 15<sup>th</sup> Street N.W., Suite 1111, Washington DC 20005 (effective January 1, 2016 through December 31, 2017; no later amendments or editions).

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## **Section 190.90 Fixed Asset Investments**

### **a) Definitions**

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to that partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

b) Investment in Fixed Assets

1) Credit unions with assets of less than \$1,000,000 that choose to invest in premises must apply to the Division for approval.

2) Credit unions with assets of \$1,000,000 or more may invest in fixed assets, without the prior approval of the Division.

c) Credit unions with assets of less than \$1,000,000 seeking to invest in premises must submit to the Division an application for approval. The application for approval must contain the following minimum supporting documentation:

1) why the purchase and/or lease is necessary to serve the credit union's members;

2) details of the proposed transaction including:

A) location and full description of the fixed asset;

B) if a purchase of premises is involved, current valuation by an

- 259 independent appraiser;  
260  
261 C) purchase price or lease details;  
262  
263 D) current owners and their relationship to the credit union or to any  
264 members of the credit union;  
265  
266 E) how the project will be financed;  
267  
268 F) if a purchase, lease or improvement of premises is involved, a  
269 summary of planned due diligence inspections to verify building,  
270 building line and use or occupancy restrictions; conditions and  
271 covenants on record; zoning laws and ordinances; easements for  
272 public utilities; and other matters pertinent to the transaction; and  
273  
274 G) evidence that the increase in operating expenses caused by the  
275 project can be supported after accounting for the current level of  
276 expenses and dividend commitments;  
277  
278 3) the credit union's latest balance sheet, income statement and loan  
279 delinquency report;  
280  
281 4) a certified copy of Board minutes that contain approval for the project.  
282  
283 d) The Division shall respond to applications for approval of fixed asset investments  
284 as follows:  
285  
286 1) The Division shall inform the credit union applicant, in writing, of the date  
287 the letter of application was received.  
288  
289 2) Approval of applications shall be given in writing once it is determined by  
290 the Division that the proposal will not adversely affect the credit union's  
291 financial position. The determination will be based on the past history,  
292 current financial condition, projections of the credit union, and whether  
293 the increase of operating expenses caused by the project can be supported  
294 after accounting for the current level of expense, dividend and reserve  
295 commitments.  
296  
297 3) An approval will state a dollar amount or percentage of retained earnings  
298 that may be invested in fixed assets by the credit union.  
299  
300 4) The Division shall provide to credit union applicants written notification  
301 of action taken within 45 calendar days after receipt of the complete

package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the Division, the credit union may proceed with its proposed investment in fixed assets.

- e) A credit union that has received approval for a specific fixed asset transaction from the Division prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after the date of promulgation, without further Division approval.

- f) In recording all transactions for fixed assets, GAAP shall be followed.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### **Section 190.140 Real Estate Lending**

- a) A credit union with total assets greater than \$1 million may, following a resolution of its board, make loans secured by a lien on real estate, including an assignment of a beneficial interest in a land trust, subject to the following procedures:

Total Assets of a Credit Union	Maximum Amount of Loans Secured by Real Estate	Aggregate of All First Mortgage Loans Secured by Real Estate
Under \$1 million	Lending Limits for Consumer Loans	0% of total assets
\$1 - 2.5 million	\$165,000*	25% of total assets
\$2.5 - 5 million	\$250,000*	30% of total assets
\$5 - 10 million	\$330,000	35% of total assets
\$10 - 30 million	\$580,000	40% of total assets
\$30 - 100 million	\$825,000	45% of total assets
Over \$100 million	\$1,000,000	50% of total assets

\* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (e).

- b) Credit unions with assets under \$1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in Section 190.160. Credit unions with assets under \$1 million shall not make first mortgage real estate loans.

- c) Credit unions shall not make first mortgage real estate loans for more than the



334 estimated market value or appraised value of the real estate securing the loans.  
335 Real estate loans, other than first mortgage loans, shall be limited to the value of  
336 the member-borrower's equity in the real estate securing the loan, provided a  
337 credit union may consider as equity any outstanding loan amount secured by the  
338 real estate if the outstanding loan will be repaid with the proceeds of the credit  
339 union's loan.

340  
341 d) The maximum individual lending limit and the maximum ratio of first mortgage  
342 real estate loans may be increased by obtaining written approval from the  
343 Secretary. Approval is to be based upon the need of the members and the credit  
344 union's real estate lending record.

345  
346 e) The maximum limit on an individual loan by credit unions with assets greater  
347 than \$1 million is in addition to the secured and unsecured lending limits of  
348 Section 190.160; provided, however, in no event shall all loans to any member  
349 exceed in the aggregate 10% of the credit union's unimpaired capital and surplus  
350 as defined in Section 190.2. Loans subject to the requirements for business loans  
351 shall be subject to the appraisal requirements set forth in subsection (h), but shall  
352 not be subject to the other provisions of this Section.

353  
354 f) The maximum maturity of a loan secured by a first mortgage shall not exceed 40  
355 years.

356  
357 g) Procedures

358  
359 1) All loans secured by a lien on real estate shall be made based upon prudent  
360 written lending policies and sound lending practices as documented in  
361 each member's loan file. Unless waived by the Secretary, lending policies  
362 shall include, without limitation, acceptable debt-to-income and loan-to-  
363 value ratios that will be considered the types of real estate security that  
364 will be accepted and any other prudent data considered necessary to  
365 determine the appropriateness of a loan request. All applicable Illinois  
366 and federal statutes shall be observed.

367  
368 2) All accounting for real estate loan transactions shall be in accordance with  
369 GAAP.

370  
371 h) Documentation

372  
373 1) Any credit union granting loans secured by a lien in real estate must  
374 procure and retain the following documentation in its files:

375  
376 A) A loan application that specifies the purpose of the loan (equity,

377 purchase, construction, refinance, etc.). The application must  
378 contain sufficient information to support the approval of the loan.  
379 The information shall include without limitation: the amount of  
380 the loan requested; the purchase price (if applicable); a listing of  
381 the borrower's assets and liabilities; a statement of the borrower's  
382 income; a specific identification of the property; and an  
383 explanation of the source of the borrower's down payment. If the  
384 loan proceeds will be used for the purchase of the property, a copy  
385 of the real estate sale contract shall be included as an attachment to  
386 the application.  
387

388 B) A legal opinion from the credit union's attorney, or a title insurance  
389 policy that identifies the credit union's lien position on the property  
390 used to secure the loan. In the case of home equity lines of credit,  
391 second mortgages, and non-purchase money first mortgage  
392 transactions, a title search prepared by a service provider capable  
393 of conducting a search shall be acceptable.  
394

395 C) For transactions of \$250,000 or less, a written estimate of market  
396 value of the property securing the loan, performed by an individual  
397 having no direct or indirect interest in the property and experienced  
398 to perform estimations of value for the type and amount of credit  
399 being considered. For transactions over \$250,000, an appraisal by  
400 a state certified or licensed appraiser that estimates the market  
401 value of the property used as security for the loan.  
402

403 D) A credit report prepared by the credit union or a credit reporting  
404 agency. The report, in conjunction with the information contained  
405 in subsection (h)(1)(A), must demonstrate the applicant's past  
406 history of repayment and ability to repay the loan in question.  
407

408 E) A duly executed note and mortgage agreement that outline the  
409 borrower's agreement to repay the loan on the terms agreed, and  
410 the borrower's agreement to provide the credit union with a valid  
411 security interest in the subject property. The mortgage agreement  
412 must contain an accurate legal description of the subject property  
413 and be duly recorded in the office of the appropriate county  
414 recorder of deeds.  
415

416 F) A settlement statement reflecting all costs of closing and all  
417 disbursements of funds at closing for real estate loans that require  
418 the use of a settlement statement under the federal Real Estate  
419 Settlement Procedures Act (RESPA) (12 USC 2601).

420  
421 G) On any loan for which the lesser of the loan-to-value ratio or loan-  
422 to-purchase price ratio exceeds 80%, the credit union may require  
423 the borrower to obtain private mortgage insurance insuring the  
424 excess of the loan above the 80% factor.

425  
426 H) In the event the subject loan is to be used for the construction of a  
427 residential dwelling that is or will be the principal residence of the  
428 member-borrower and the loan will be secured by a perfected first  
429 lien or first security interest in favor of the credit union, the credit  
430 union must obtain satisfactory evidence of the payment in full of  
431 the costs of furnishing labor and material in connection with the  
432 construction. The evidence shall include receipt of an owner's  
433 statement, under oath, setting forth the names of all parties with  
434 whom the owner has contracted for the furnishing of labor and  
435 material; a general contractor's sworn statement from each of the  
436 parties named in the owner's statement; a subcontractor's sworn  
437 statement from each subcontractor named in the general  
438 contractor's statement; and partial and final unconditional lien  
439 waivers from the general contractor and all subcontractors and  
440 materialmen indicating that they have completed their respective  
441 portion of the work and been paid in full. The credit union must  
442 inspect, or cause to be inspected by a third party, the completion of  
443 each phase of the work for which an advance of any portion of the  
444 loan proceeds is sought. Any such inspections must be clearly  
445 documented in the file as to the date of the inspection and a brief  
446 explanation of the work progression. Additionally, the credit  
447 union must obtain a borrower payment authorization, in connection  
448 with each payment to the general contractor. This subsection  
449 (h)(1)(H) shall not apply to a loan to finance the repair, alteration  
450 or improvement of a residential dwelling which is the residence of  
451 the member-borrower.

452  
453 2) A loan secured by a lien on real estate is exempt from the requirements of  
454 subsections (h)(1)(B), (C) and (G) of this Section if the loan complies with  
455 the following criteria:

456  
457 A) The loan is not used for the purchase or refinancing of the real  
458 estate securing the loan.

459  
460 B) The lien on real estate is taken as collateral solely through an  
461 abundance of caution.  
462

- 463 C) The terms of the transaction are not more favorable than they  
464 would have been in the absence of the lien on real estate.  
465
- 466 D) The transaction complies with the lending limits and other  
467 requirements for consumer loans set forth in Section 190.160.  
468
- 469 i) Sale of Real Estate Loans  
470
- 471 1) A credit union may sell, in whole or in part, any loan secured by real  
472 estate to:  
473
- 474 A) Federal National Mortgage Association (FNMA).  
475
- 476 B) Government National Mortgage Association.  
477
- 478 C) Federal Home Loan Mortgage Corporation.  
479
- 480 D) The Federal Home Loan Bank of the Federal Home Loan Bank  
481 System district in which the credit union is located.  
482
- 483 E) Federal, Illinois and Local Housing Authorities.  
484
- 485 F) Credit Unions, Banks, Savings Banks and Savings and Loan  
486 Associations chartered under the laws of the United States, the  
487 State of Illinois or any other state.  
488
- 489 G) Residential mortgage licensees properly registered with and  
490 licensed by the Department of Financial and Professional  
491 Regulation-Division of Banking.  
492
- 493 H) Other institutions approved by the Secretary.  
494
- 495 2) All such sales shall not be subject to recourse or repurchase that enables  
496 the credit union to retain control over the transferred assets. The credit  
497 union shall have surrendered control over the transferred assets if:  
498
- 499 A) The transferred assets have been put presumptively beyond the  
500 reach of the credit union transferring the assets and its creditors;  
501
- 502 B) The purchaser has the right to pledge or exchange the assets; and  
503
- 504 C) The credit union does not maintain effective control over the  
505 transferred assets through an agreement that both entitles and

obligates the credit union to repurchase the assets before their maturity.

- 3) A limited recourse provision in a sale agreement that obligates the credit union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

(Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 190.150 Reverse Mortgage (Repealed)**

(Source: Repealed at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### **Section 190.165 Business Loans**

a) Purpose and Scope

- 1) This Section is intended to accomplish two broad objectives. First, it sets out policy and program responsibilities that an Illinois chartered credit union must adopt and implement as part of a safe and sound commercial lending program. Second, it incorporates the statutory limit on the aggregate amount of member business loans that a federally insured credit union may make pursuant to Section 107A of the Federal Credit Union Act (12 USC 1757a). This Section distinguishes between these two distinct objectives.
- 2) Credit Unions and Loans Covered by this Section
- A) This Section applies to Illinois chartered natural person credit unions. However, an Illinois chartered natural person credit union is not subject to subsections (c) and (d) if it meets all of the following conditions:
- i) The credit union's total assets are less than \$250 million.
- ii) The credit union's aggregate amount of outstanding commercial loan balances and unfunded commitments, plus any outstanding commercial loan balances and unfunded commitments of participations sold, plus any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union total less than 15% of the credit union's net worth.

- iii) In a given calendar year the amount of originated and sold commercial loans the credit union does not continue to service total less than 15% of the credit union's net worth.

B) This Section does not apply to loans:

- i) Made by a corporate credit union, as defined in Section 1.1 of the Act;
- ii) Made by a federally insured credit union to another federally insured credit union;
- iii) Made by a credit union to a credit union service organization, as defined in Section 190.5; or
- iv) Fully secured by a lien on a 1 to 4 family residential property that is a member's primary residence.

3) Other Regulations that Apply

- A) As required by section 741.203 of the NCUA regulations (12 CFR 741.203), a federally insured, State chartered credit union must comply with sections 701.21(c)(8) (prohibited fees) and (d)(5) (non-preferential loans) (12 CFR 701.21(c)(8) and (d)(5)).
- B) When a credit union makes a commercial loan as part of a loan program in which a federal or state agency (or its political subdivision) insures repayment, guarantees repayment, or provides an advance commitment to purchase the loan in full and that program has requirements that are less restrictive than those required by this Section, the credit union may follow the loan requirements of the relevant guaranteed loan program.
- C) The requirements of section 701.22 of the NCUA regulations (12 CFR 701.22) apply to a federally insured credit union's purchase of a participation interest in a commercial loan.

b) Definitions – For purposes of this Section, the following definitions apply:

- 1) "Associated borrower" means any other person or entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower. This means any person or entity named as a borrower or debtor in a loan or extension of credit, or any

other person or entity, such as a drawer, endorser or guarantor, engaged in a common enterprise with the borrower, or deriving a direct benefit from the loan to the borrower. Exceptions to this definition for partnerships, joint ventures and associations are as follows:

- A) If the borrower is a partnership, joint venture or association, and the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is a member or partner of the borrower, and neither a direct benefit nor a common enterprise exists, this other person is not an associated borrower.
  - B) If the borrower is a member or partner of a partnership, joint venture or association, the other entity is not an associated borrower if:
    - i) the other entity with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is the partnership, joint venture or association;
    - ii) the borrower is a limited partner of that other entity; and
    - iii) by the terms of a partnership or membership agreement valid under applicable law, the borrower is not held generally liable for the debts or actions of that other entity.
  - C) If the borrower is a member or partner of a partnership, joint venture or association, the other person is not an associated borrower if:
    - i) the other person with a shared ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower is another member or partner of the partnership, joint venture or association; and
    - ii) neither a direct benefit nor a common enterprise exists.
- 2) "Commercial loan" means any loan, line of credit or letter of credit (including any unfunded commitments), and any interest a credit union obtains in loans made by another lender, to individuals, sole proprietorships, partnerships, corporations or other business enterprises for

commercial, industrial, agricultural or professional purposes, but not for personal expenditure purposes. Excluded from this definition are loans:

- A) made by a corporate credit union;
- B) made by a federally insured credit union to another federally insured credit union;
- C) made by a credit union to a credit union service organization;
- D) made by a credit union not subject to section 107A of the Federal Credit Union Act (12 USC 1757a) to another credit union;
- E) secured by a 1 to 4 family residential property (whether or not it is the borrower's primary residence);
- F) fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions;
- G) secured by a vehicle manufactured for household use; and
- H) that would otherwise meet the definition of commercial loan, when the aggregate outstanding balances plus unfunded commitments less any portion secured by shares in the credit union to a borrower or an associated borrower are less than \$50,000.

3) "Common enterprise" means:

- A) The expected source of repayment for each loan or extension of credit is the same for each borrower and no individual borrower has another source of income from which the loan (together with the borrower's other obligations) may be fully repaid. An employer will not be treated as a source of repayment because of wages and salaries paid to an employee, unless the standards described in subsection (b)(3)(B) are met;
- B) Loans or extensions of credit are made:
  - i) To borrowers who are related directly or indirectly through common control, including when one borrower is directly or indirectly controlled by another borrower; and



676                   ii)       Substantial financial interdependence exists between or  
677                               among the borrowers. Substantial financial interdependence  
678                               means 50% or more of one borrower's gross receipts or  
679                               gross expenditures (on an annual basis) are derived from  
680                               transactions with another borrower. Gross receipts and  
681                               expenditures include gross revenues or expenses,  
682                               intercompany loans, dividends, capital contributions and  
683                               similar receipts or payments; or  
684

685                   C)       Separate borrowers obtain loans or extensions of credit to acquire a  
686                               business enterprise of which those borrowers will own more than  
687                               50% of the voting securities or voting interests.  
688

689           4)       "Control" means a person or entity directly or indirectly, or acting through  
690                               or together with one or more persons or entities:  
691

692                   A)       Owns, controls or has the power to vote 25% or more of any class  
693                               of voting securities of another person or entity;  
694

695                   B)       Controls, in any manner, the election of a majority of the directors,  
696                               trustees or other persons exercising similar functions of another  
697                               person or entity; or  
698

699                   C)       Has the power to exercise a controlling influence over the  
700                               management or policies of another person or entity.  
701

702           5)       "Credit risk rating system" means a formal process that identifies and  
703                               assigns a relative credit risk score to each commercial loan in a credit  
704                               union's portfolio, using ordinal ratings to represent the degree of risk. The  
705                               credit risk score is determined through an evaluation of quantitative  
706                               factors based on financial performance and qualitative factors based on  
707                               management, operational, market and business environmental factors.  
708

709           6)       "Direct benefit" means the proceeds of a loan or extension of credit to a  
710                               borrower, or assets purchased with those proceeds, that are transferred to  
711                               another person or entity, other than in a bona fide arm's-length transaction,  
712                               when the proceeds are used to acquire property, goods or services.  
713

714           7)       "Financial statement quality" is determined by:  
715

716                   A)       The level of assurance provided by the preparer and the required  
717                               professional standards supporting the preparer's opinion. In many  
718                               cases, tax returns and/or financial statements professionally

prepared in accordance with generally accepted accounting principles (GAAP) will be sufficient for less complex borrowing relationships, such as those that are limited to a single operation of the borrower and principal with relatively low debt. For more complex and larger borrowing relationships, such as those involving borrowers or principals with significant loans outstanding or multiple or interrelated operations, the credit union should require borrowers and principals to provide either:

- i) An auditor's review of the financial statements prepared consistent with GAAP to obtain limited assurance (i.e., a "review quality" financial statement); or
- ii) an independent financial statement audit under generally accepted auditing standards (GAAS) for the expression of an opinion on the financial statements prepared in accordance with GAAP (i.e., an "audit quality" financial statement).

B) Credit unions should address the criteria and thresholds for the required financial reporting in their policies. Credit unions should allow exceptions in their credit policies if they determine the relationship does not require the same level of assurance and they are satisfied that the lesser quality still provides them with accurate reporting of the borrower's financial performance. Credit unions will be expected to address the issue of exceptions in their loan policies. Any exception should be documented by credit union staff and approved by the appropriate designated internal authority.

- 8) "Immediate family member" means a spouse or other family member living in the same household.
- 9) "Loan secured by a 1 to 4 family residential property" means a loan that, at origination, is secured wholly or substantially by a lien on a 1 to 4 family residential property for which the lien is central to the extension of the credit; that is, the borrower would not have been extended credit in the same amount or on terms as favorable without the lien. A loan is wholly or substantially secured by a lien on a 1 to 4 family residential property if the estimated value of the real estate collateral at origination (after deducting any senior liens held by others) is greater than 50% of the principal amount of the loan.

- 761 10) "Loan secured by a vehicle manufactured for household use" means a loan  
762 that, at origination, is secured wholly or substantially by a lien on a new or  
763 used passenger car or other vehicle such as a minivan, sport-utility  
764 vehicle, pickup truck or similar light truck or heavy-duty truck generally  
765 manufactured for personal, family or household use and not used as a fleet  
766 vehicle or to carry fare-paying passengers, for which the lien is central to  
767 the extension of credit. A lien is central to the extension of credit if the  
768 borrower would not have been extended credit in the same amount or on  
769 terms as favorable without the lien. A loan is wholly or substantially  
770 secured by a lien on a vehicle manufactured for household use if the  
771 estimated value of the collateral at origination (after deducting any senior  
772 liens held by others) is greater than 50% of the principal amount of the  
773 loan.  
774
- 775 11) "Loan-to-value ratio" means, with respect to any item of collateral, the  
776 aggregate amount of all sums borrowed and secured by that collateral,  
777 including outstanding balances plus any unfunded commitment or line of  
778 credit from another lender that is senior to the credit union's lien position,  
779 divided by the current collateral value. The current collateral value must  
780 be established by prudent and accepted commercial lending practices and  
781 comply with all regulatory requirements. For a construction and  
782 development loan, the collateral value is the lesser of cost to complete or  
783 prospective market value, as determined in accordance with subsection (f).  
784
- 785 12) "Net worth" means a credit union's net worth, as defined in Section 190.2.  
786
- 787 13) "Readily marketable collateral" means a financial instrument or bullion  
788 that is salable under ordinary market conditions with reasonable  
789 promptness at a fair market value determined by quotations based upon  
790 actual transactions on an auction or similarly available daily bid and ask  
791 price market.  
792
- 793 14) "Residential property" means a house, condominium unit, cooperative  
794 unit, manufactured home (whether completed or under construction) or  
795 unimproved land zoned for 1 to 4 family residential use. A boat or motor  
796 home, even if used as a primary residence, or timeshare property is not  
797 residential property.  
798
- 799 c) Board of Directors and Management Responsibilities  
800 Prior to engaging in commercial lending, a credit union must address the  
801 following board responsibilities and operational requirements:  
802

- 1) Board of Directors. A credit union's board of directors, at a minimum, must:
- A) Approve a commercial loan policy that complies with subsection (d). The board must review its policy on an annual basis, prior to any material change in the credit union's commercial lending program or related organizational structure, and in response to any material change in portfolio performance or economic conditions, and update it when warranted.
  - B) Ensure the credit union appropriately staffs its commercial lending program in compliance with subsection (c)(2).
  - C) Understand and remain informed, through periodic briefings from responsible staff and other methods, about the nature and level of risk in the credit union's commercial loan portfolio, including its potential impact on the credit union's earnings and net worth.
- 2) Required Expertise and Experience. A credit union making, purchasing or holding any commercial loan must internally possess the following experience and competencies:
- A) Senior Executive Officers. A credit union's senior executive officers overseeing the commercial lending function must understand the credit union's commercial lending activities. At a minimum, senior executive officers must have a comprehensive understanding of the role of commercial lending in the credit union's overall business model and establish risk management processes and controls necessary to safely conduct commercial lending.
  - B) Qualified Lending Personnel. A credit union must employ qualified staff with experience in the following areas:
    - i) Underwriting and processing for the type of commercial lending in which the credit union is engaged;
    - ii) Overseeing and evaluating the performance of a commercial loan portfolio, including rating and quantifying risk through a credit risk rating system; and

- 844                                   iii)     Conducting collection and loss mitigation activities for the  
845   type of commercial lending in which the credit union is  
846   engaged.

- 847  
848                   C)     Options to Meet the Required Experience. A credit union may  
849                             meet the experience requirements in subsections (c)(2)(A) and  
850                             (c)(2)(B) by conducting internal training and development, hiring  
851                             qualified individuals or using a third-party, such as an independent  
852                             contractor or a credit union service organization. However, with  
853                             respect to the qualified lending personnel requirements in  
854                             subsection (c)(2)(B), use of a third-party is permissible only if the  
855                             following conditions are met:

- 856  
857                             i)     The third-party has no affiliation or contractual relationship  
858   with the borrower or any associated borrowers;  
859  
860                             ii)    The actual decision to grant a loan must reside with the  
861   credit union;  
862  
863                             iii)   Qualified credit union staff exercises ongoing oversight  
864   over the third party by regularly evaluating the quality of  
865   any work the third party performs for the credit union; and  
866  
867                             iv)    The third-party arrangement must otherwise comply with  
868   subsection (g).

- 869  
870           d)     Commercial Loan Policy  
871                     Prior to engaging in commercial lending, a credit union must adopt and  
872                     implement a comprehensive written commercial loan policy and establish  
873                     procedures for commercial lending. The board-approved policy must ensure the  
874                     credit union's commercial lending activities are performed in a safe and sound  
875                     manner by providing for ongoing control, measurement and management of the  
876                     credit union's commercial lending activities. At a minimum, a credit union's  
877                     commercial loan policy must address each of the following:

- 878  
879                     1)     Type of commercial loans permitted.  
880  
881                     2)     Trade area.  
882  
883                     3)     Maximum amount of assets, in relation to net worth, allowed:  
884  
885                             A)     in secured, unsecured and unguaranteed commercial loans;  
886

- 887 B) in any given category or type of commercial loan; and  
888  
889 C) to any one borrower or group of associated borrowers, provided:  
890  
891 i) the policy must specify that the aggregate dollar amount of  
892 commercial loans to any one borrower or group of  
893 associated borrowers may not exceed the greater of 15% of  
894 the credit union's net worth or \$100,000, plus an additional  
895 10% of the credit union's net worth if the amount that  
896 exceeds the credit union's 15% general limit is fully  
897 secured at all times with a perfected security interest by  
898 readily marketable collateral, as defined in subsection (b);  
899  
900 ii) any insured or guaranteed portion of a commercial loan  
901 made through a program in which a federal or state agency  
902 (or its political subdivision) insures repayment, guarantees  
903 repayment or provides an advance commitment to purchase  
904 the loan in full, is excluded from this limit; and  
905  
906 iii) the maximum limit on commercial loans is in addition to  
907 the secured and unsecured limits established in Sections  
908 190.140 and 190.160; provided, however, in no event shall  
909 all loans to any borrower or group of associated borrowers  
910 exceed in the aggregate 10% of the credit union's  
911 unimpaired capital and surplus.  
912  
913 4) Qualifications and experience requirements for personnel involved in  
914 underwriting, processing, approving, administering and collecting  
915 commercial loans.  
916  
917 5) Loan approval processes, including establishing levels of loan approval  
918 authority commensurate with the individual's or committee's proficiency  
919 in evaluating and understanding commercial loan risk, when considered in  
920 terms of the level of risk the borrowing relationship poses to the credit  
921 union.  
922  
923 6) Underwriting standards commensurate with the size, scope and  
924 complexity of the commercial lending activities and borrowing  
925 relationships contemplated. The standards must, at a minimum, address  
926 the following:  
927

- 928                   A)     The level and depth of financial analysis necessary to evaluate the  
929                   financial trends and condition of the borrower and the ability of the  
930                   borrower to meet debt service requirements;  
931  
932                   B)     Thorough due diligence of the principals to determine whether any  
933                   related interests of the principals might have a negative impact or  
934                   place an undue burden on the borrower and related interests with  
935                   regard to meeting the debt obligations with the credit union;  
936  
937                   C)     Requirements of a borrower-prepared projection when historic  
938                   performance does not support projected debt payments. The  
939                   projection must be supported by reasonable rationale and, at a  
940                   minimum, must include a projected balance sheet and income and  
941                   expense statement;  
942  
943                   D)     The financial statement quality and the degree of verification  
944                   sufficient to support an accurate financial analysis and risk  
945                   assessment;  
946  
947                   E)     The methods to be used in collateral evaluation, for all types of  
948                   collateral authorized, including loan-to-value ratio limits. These  
949                   methods must be appropriate for the particular type of collateral.  
950                   The means to secure various types of collateral, and the measures  
951                   taken for environmental due diligence, must also be appropriate for  
952                   all authorized collateral; and  
953  
954                   F)     Other appropriate risk assessment, including analysis of the impact  
955                   of current market conditions on the borrower and associated  
956                   borrowers.  
957  
958           7)     Risk management processes commensurate with the size, scope and  
959                   complexity of the credit union's commercial lending activities and  
960                   borrowing relationships. These processes must, at a minimum, address the  
961                   following:  
962  
963                   A)     Use of loan covenants, if appropriate, including frequency of  
964                   borrower and guarantor financial reporting;  
965  
966                   B)     Periodic loan review, consistent with loan covenants, sufficient to  
967                   conduct portfolio risk management. This review must include a  
968                   periodic reevaluation of the value and marketability of any  
969                   collateral;  
970



- 971 C) A credit risk rating system. Credit risk ratings must be assigned to  
972 commercial loans at inception and reviewed as frequently as  
973 necessary to satisfy the credit union's risk monitoring and reporting  
974 policies and to ensure adequate reserves as required by GAAP; and  
975  
976 D) A process to identify, report and monitor loans approved as  
977 exceptions to the credit union's loan policy.  
978

979 e) Collateral and Security  
980

- 981 1) A credit union must require collateral commensurate with the level of risk  
982 associated with the size and type of any commercial loan. Collateral must  
983 be sufficient to ensure adequate loan balance protection, along with  
984 appropriate risk sharing with the borrower and principals. A credit union  
985 making an unsecured loan must determine and document in the loan file  
986 that mitigating factors sufficiently offset the relevant risk.  
987  
988 2) A credit union that does not require the full and unconditional personal  
989 guarantee from the principals of the borrower who has a controlling  
990 interest in the borrower must determine and document in the loan file that  
991 mitigating factors sufficiently offset the relevant risk.  
992

993 f) Construction and Development Loans

994 In addition to the requirements of subsections (a) through (e), the following  
995 requirements apply to a construction and development loan made by any credit  
996 union.  
997

- 998 1) For the purposes of this subsection (f), a construction or development loan  
999 means any financing arrangement enabling the borrower to acquire  
1000 property or rights to property, including land or structures, with the intent  
1001 to construct or renovate an income producing property, such as residential  
1002 housing for rental or sale, or a commercial building, such as may be used  
1003 for commercial, agricultural, industrial or other similar purposes. It also  
1004 means a financing arrangement for the construction, major expansion or  
1005 renovation of the property types referenced in this subsection (f). The  
1006 collateral valuation for securing a construction or development loan  
1007 depends on the satisfactory completion of the proposed construction or  
1008 renovation when the loan proceeds are disbursed in increments as the  
1009 work is completed. A loan to finance maintenance, repairs or  
1010 improvements to an existing income producing property that does not  
1011 change its use or materially impact the property is not a construction or  
1012 development loan.  
1013



1014 2) A credit union that elects to make a construction or development loan  
1015 must ensure that its commercial loan policy includes adequate provisions  
1016 by which the collateral value associated with the project is properly  
1017 determined and established. For a construction or development loan,  
1018 collateral value is the lesser of the project's cost to complete or its  
1019 prospective market value.  
1020

1021 A) For the purposes of this subsection (f), "cost to complete" means  
1022 the sum of all qualifying costs necessary to complete a  
1023 construction project and documented in an approved construction  
1024 budget. Qualifying costs generally include on-site or off-site  
1025 improvements, building construction, other reasonable and  
1026 customary costs paid to construct or improve a project, including  
1027 general contractor's fees, and other expenses normally included in  
1028 a construction contract, such as bonding and contractor insurance.  
1029 Qualifying costs include the value of the land, determined as the  
1030 lesser of appraised market value or purchase price plus the cost of  
1031 any improvements. Qualifying costs also include interest, a  
1032 contingency account to fund unanticipated overruns, and other  
1033 development costs such as fees and related pre-development  
1034 expenses. Interest expense is a qualifying cost only to the extent it  
1035 is included in the construction budget and is calculated based on  
1036 the projected changes in the loan balance up to the expected "as-  
1037 complete" date for owner-occupied non-income producing  
1038 commercial real estate or the "as-stabilized" date for income  
1039 producing real estate. Project costs for related parties, such as  
1040 developer fees, leasing expenses, brokerage commissions and  
1041 management fees, are included in qualifying costs only if  
1042 reasonable in comparison to the cost of similar services from a  
1043 third party. Qualifying costs exclude interest or preferred returns  
1044 payable to equity partners or subordinated debt holders, the  
1045 developer's general corporate overhead, and selling costs to be  
1046 funded out of sales proceeds, such as brokerage commissions and  
1047 other closing costs.  
1048

1049 B) For the purposes of this subsection (f), "prospective market value"  
1050 means the market value opinion determined by an independent  
1051 appraiser in compliance with the relevant standards set forth in the  
1052 USPAP. Prospective value opinions are intended to reflect the  
1053 current expectations and perceptions of market participants, based  
1054 on available data. Two prospective value opinions may be required  
1055 to reflect the time frame during which development, construction  
1056 and occupancy occur. The prospective market value "as-

completed" reflects the property's market value as of the time that development is to be completed. The prospective market value "as-stabilized" reflects the property's market value as of the time the property is projected to achieve stabilized occupancy. For an income producing property, stabilized occupancy is the occupancy level that a property is expected to achieve after the property is exposed to the market for lease over a reasonable period of time and at comparable terms and conditions to other similar properties.

- 3) A credit union that elects to make a construction and development loan must also assure its commercial loan policy meets the following conditions:
- A) Qualified personnel representing the interests of the credit union must conduct a review and approval of any line item construction budget prior to closing the loan;
  - B) A credit union approved requisition and loan disbursement process is established;
  - C) Release or disbursement of loan funds occurs only after on-site inspections, documented in a written report by qualified personnel representing the interests of the credit union, certifying that the work requisitioned for payment has been satisfactorily completed, and the remaining funds available to be disbursed from the construction and development loan are sufficient to complete the project; and
  - D) Each loan disbursement is subject to confirmation that no intervening liens have been filed.

g) Prohibited Activities

- 1) Ineligible Borrowers. A credit union shall not grant a commercial loan to the following:
- A) Any senior management employee directly or indirectly involved in the credit union's commercial loan underwriting, servicing and collection process, and any of their immediate family members;
  - B) Any person meeting the definition of an associated borrower with respect to persons identified in subsection (g)(1)(A); or

- 1100 C) Any compensated director, unless the credit union's board of  
1101 directors approves granting the loan and the compensated director  
1102 was recused from the board's decision making process.  
1103
- 1104 2) Equity Agreements/Joint Ventures. A credit union shall not grant a  
1105 commercial loan if any additional income received by the credit union or  
1106 its senior management employees is tied to the profit or sale of any  
1107 business or commercial endeavor that benefits from the proceeds of the  
1108 loan.  
1109
- 1110 3) Conflicts of Interest. Any third party used by a credit union to meet the  
1111 requirements of this Section must be independent from the commercial  
1112 loan transaction and shall not have a participation interest in a loan or an  
1113 interest in any collateral securing a loan that the third party is responsible  
1114 for reviewing, or an expectation of receiving compensation of any sort that  
1115 is contingent on the closing of the loan, with the following exceptions:  
1116
- 1117 A) A third party may provide a service to the credit union that is  
1118 related to the transaction, such as loan servicing.  
1119
- 1120 B) The third party may provide the requisite experience to a credit  
1121 union and purchase a loan or a participation interest in a loan  
1122 originated by the credit union that the third party reviewed.  
1123
- 1124 C) A credit union may use the services of a credit union service  
1125 organization that otherwise meets the requirements of subsection  
1126 (c)(2)(C) even if the credit union service organization is not  
1127 independent from the transaction, provided the credit union has a  
1128 controlling financial interest in the credit union service  
1129 organization as determined under GAAP.  
1130
- 1131 h) Aggregate Member Business Loan Limit; Exclusions and Exceptions  
1132 This subsection (h) incorporates the statutory limits on the aggregate amount of  
1133 member business loans that may be held by a federally insured credit union and  
1134 establishes the method for calculating a federally insured credit union's net  
1135 member business loan balance for purposes of the statutory limits and NCUA  
1136 form 5300 reporting.  
1137
- 1138 1) Statutory Limits. The aggregate limit on a federally insured credit union's  
1139 net member business loan balances is the lesser of 1.75 times the actual  
1140 net worth of the credit union, or 1.75 times the minimum net worth  
1141 required under section 1790d(c)(1)(A) of the Federal Credit Union Act (12  
1142 USC 1790d(c)(1)(A)).

- 1143  
1144 2) Definition. For the purposes of this subsection (h), "member business  
1145 loan" means any commercial loan as defined in subsection (b), except that  
1146 the following commercial loans are not member business loans and are not  
1147 counted toward the aggregate limit on a federally insured credit union's  
1148 member business loans:  
1149
- 1150 A) Any loan in which a federal or state agency (or its political  
1151 subdivision) fully insures repayment, fully guarantees repayment,  
1152 or provides an advance commitment to purchase the loan in full;  
1153 and  
1154
- 1155 B) Any non-member commercial loan or non-member participation  
1156 interest in a commercial loan made by another lender, provided the  
1157 federally insured credit union acquired the non-member loans and  
1158 participation interests in compliance with all relevant laws and  
1159 regulations and is not, in conjunction with one or more other credit  
1160 unions, trading member business loans to circumvent the aggregate  
1161 limit.  
1162
- 1163 3) Exceptions. Any loan secured by a lien on a 1 to 4 family residential  
1164 property that is not a member's primary residence, and any loan secured by  
1165 a vehicle manufactured for household use that will be used for a  
1166 commercial, corporate or other business investment property or venture, or  
1167 agricultural purpose, is not a commercial loan but is a member business  
1168 loan (if the outstanding aggregate net member business loan balance is  
1169 equal to or greater than \$50,000) and must be counted toward the  
1170 aggregate limit on a federally insured credit union's member business  
1171 loans.  
1172
- 1173 4) Statutory Exemptions. A federally insured credit union that has a low-  
1174 income designation, or participates in the U.S. Department of the  
1175 Treasury's Community Development Financial Institutions Program, or  
1176 was chartered for the purpose of making member business loans, or that as  
1177 of the date of enactment of the Credit Union Membership Access Act of  
1178 1998 (P.L. 105-219), had a history of primarily making commercial loans,  
1179 is exempt from compliance with the aggregate member business loan  
1180 limits in this subsection (h).  
1181
- 1182 5) Method of Calculation for Net Member Business Loan Balance. For the  
1183 purposes of NCUA form 5300 reporting, a federally insured credit union's  
1184 net member business loan balance is determined by calculating the

outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is:

- A) secured by shares in the credit union;
- B) secured by shares or deposits in other financial institutions;
- C) secured by a lien on a member's primary residence;
- D) insured or guaranteed by any agency of the federal government, a state or any political subdivision of that state;
- E) subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of that state; or
- F) sold as a participation interest without recourse and qualifying for true sales accounting under GAAP.

i) Transitional Provisions

This subsection (i) governs circumstances in which, as of January 1, 2017, a credit union is operating in accordance with an approved waiver from the Division or NCUA or is subject to any enforcement constraint relative to its commercial lending activities.

- 1) Waivers. As of January 1, 2017, any waiver approved by the Division or NCUA concerning a credit union's commercial lending activity is rendered moot, except that waivers granted prior to January 1, 2017, for borrowing relationships (loans made to one borrower or group of associated borrowers), will be grandfathered. However, the debt associated with those relationships may not be increased.
- 2) Enforcement Constraints. Limitations or other conditions imposed on a credit union in any written directive from the Division or NCUA, including, but not limited to, items specified in any Document of Resolution, any published or unpublished Letter of Understanding and Agreement, Regional Director Letter, Preliminary Warning Letter, or formal enforcement action, are unaffected by the adoption of this Section. Included within this subsection (i)(2) are any constraints or conditions embedded within any waiver issued by the Division or NCUA. As of January 1, 2017, all these limitations or other conditions remain in place until they are modified by the Division or NCUA.

1228           j)       Allowance for Loan Losses for Business Loans  
1229               Allowance for loan losses for business loans will be determined in accordance  
1230               with GAAP. The external auditor conducting the credit union's financial statement  
1231               audit shall analyze the methodology employed by the credit union and conclude  
1232               that the financial statements, including the allowance for loan losses, are fairly  
1233               stated in all material respects in accordance with GAAP.  
1234  
1235       (Source: Amended at 41 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 345  
BANK COMMUNITY REINVESTMENT

SUBPART A: GENERAL

Section

- 345.10 Authority, Purposes, and Scope
- 345.20 Definitions

SUBPART B: STANDARDS OF ASSESSING PERFORMANCE

Section

- 345.200 Assessment Factors
- 345.210 Performance Tests, Standards, and Ratings, in General
- 345.220 Lending Test
- 345.230 Investment Test
- 345.240 Service Test
- 345.250 Community Development Test for Wholesale or Limited Purpose Banks
- 345.260 Small Bank Performance Standards
- 345.270 Strategic Plan
- 345.280 Assigned Ratings
- 345.290 Effect of ILCRA Performance on Applications

SUBPART C: RECORDS, REPORTING, AND DISCLOSURE REQUIREMENTS;  
EXAMINATIONS

Section

- 345.400 Assessment Area Delineation
- 345.410 Data Collection, Reporting, and Disclosure
- 345.420 Content and Availability of Public File
- 345.430 Public Notice by Banks
- 345.440 Publication of Planned Examination Schedule
- 345.450 Alternative Examination Procedures
- 345.460 Examination Authority and Cooperation
- 345.470 Examination Frequency and Coordination
- 345.480 Examination Fees
- 345.490 Implementation Period
- 345.500 Enforcement

- 345.APPENDIX A Ratings

345.APPENDIX B ILCRA Notice

345.APPENDIX C Examples of Community Development

AUTHORITY: Implementing and authorized by the Illinois Community Reinvestment Act [205 ILCS 735].

SOURCE: Adopted at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.



## SUBPART A: GENERAL

**Section 345.10 Authority, Purposes, and Scope**

- a) The Illinois Community Reinvestment Act (ILCRA) [205 ILCS 735] authorizes this Part.
- b) Purposes. This Part is intended to carry out the purposes of the Illinois Community Reinvestment Act (ILCRA) by establishing the framework and criteria by which the Secretary assesses the ILCRA record of a bank, as defined by Section 345.10. Without limiting the aforementioned purpose, specific purposes of this Part include:
  - 1) Establishment of rules pursuant to Section 35-10(b) of the ILCRA, which requires that this Part incorporate federal rules promulgated under the federal Community Reinvestment Act [12 U.S.C. 2901; see also 12 CFR 345]. Specifically, Section 35-10(b) of the ILCRA states, in relevant part: *To assist in carrying out this Act, the Secretary shall adopt rules incorporating the regulations applicable to covered financial institutions under federal law, and the Secretary may make such adjustments and exceptions thereto as are deemed necessary.* [205 ILCS 735/35-10(b)]
  - 2) Accordingly, this Part:
    - A) may include references to federal statutes or administrative rules established pursuant to the federal Community Reinvestment Act; and
    - B) except where this Subpart makes adjustments or exceptions to the federal rules established pursuant to the federal Community Reinvestment Act or where inconsistent with the ILCRA or this Subpart, this Subpart shall be construed and interpreted consistently with the appropriate federal financial supervisory agency's construction and interpretation of the federal rules.
  - 3) Establishment of rules as required by Section 35-10(c) of the ILCRA.
  - 4) Establishment of rules as the Secretary may deem appropriate as authorized by the Act under Section 35-15(a), Section 35-35, or otherwise. These rules shall be liberally construed to effectuate their purpose.
- c) Scope.

- 1) General. Except for certain special purpose banks described in subsection (c)(3), this Part applies to all State banks and savings banks.
- 2) Foreign Bank Corporations. In the case of banking offices of a foreign banking corporation, as defined in Section 2 of the Foreign Banking Office Act [205 ILCS 645/2], references in this Part to "main office" mean the principal branch within the State and the term "branch" or "branches" refers to any branch or branches located within the State. The "assessment area" of a banking office is the community or communities located within the State served by the branch as described in Section 345.400.
- 3) Certain special purpose banks. This Part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in Section 5c of the Illinois Banking Act [205 ILCS 5/5c], and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

**Section 345.20 Definitions**

For purposes of this Part, the following definitions apply:

"Affiliate" means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

"Alternative financial products or services" means financial products or services offered by persons other than an insured depository institution at a higher cost than comparable services offered by an insured depository institution.

"Area median income" means:

the median family income for the Metropolitan Statistical Area (MSA), if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or

the statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

"Assessment area" means a geographic area delineated in accordance with Section 345.400.

"Bank" means a bank that has a charter issued under the Illinois Banking Act [205 ILCS 5], a savings bank that has a charter issued under the Savings Bank Act [205 ILCS 205], and an FDIC-insured banking office of a foreign banking corporation issued a certificate of authority under the Foreign Banking Office Act [205 ILCS 645].

"Branch" means a staffed banking facility defined as a branch under Section 2 of the Illinois Banking Act [205 ILCS 5/2] or Section 1007.20 of the Illinois Savings Bank Act [205 ILCS 205/1007.20], and a branch of a banking office of a foreign banking corporation issued a certificate of authority under the Foreign Banking Office Act [205 ILCS 645], whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

"Community development" means:

Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

Community services targeted to low- or moderate-income individuals;

Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or

Activities that revitalize or stabilize –

Low-or moderate-income geographies;

Designated disaster areas;

Distressed or underserved nonmetropolitan middle-income geographies designated by the Board of Governors of the Federal Reserve System, FDIC, and Office of the Comptroller of the Currency, based on –

Rates of poverty, unemployment, and population loss; or

Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals; or

Unbanked or underbanked geographies; and

Activities targeted to directly and tangibly –

Increase climate resilience in low-income to moderate-income neighborhoods; or

Mitigate environmental harm in low-income to moderate-income neighborhoods.

"Community development loan" means a loan that:

Has as its primary purpose community development; and

Except in the case of a wholesale or limited purpose bank:

Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in 12 CFR 1003.2(n)); and

Benefits the bank's assessment area or a broader statewide or regional area that includes the bank's assessment area.

"Community development service" means a service that:

Has as its primary purpose community development;

Is related to the provision of financial services; and

Has not been considered in the evaluation of the bank's retail banking services under Section 345.240(d).

"Consumer loan" means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

Motor vehicle loan, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

Credit card loan, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in 12 CFR 1026.2;

Other secured consumer loan, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

Other unsecured consumer loan, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

"Department" means the Illinois Department of Financial and Professional Regulation.

"FDIC" means the Federal Deposit Insurance Corporation.

"Geography" means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

"Home mortgage loan" means a closed-end mortgage loan or an open-end line of credit as these terms are defined under Section 1003.2 and that is not an excluded transaction under 12 CFR 1003.3(c)(1) through (10) and (13).

"Income level" includes:

Low-income, which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a geography.

Moderate-income, which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a geography.

Middle-income, which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a geography.

Upper-income, which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a geography.

"Limited purpose bank" means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with Section 345.250(b).

"Loan location" means a loan is located as follows:

A consumer loan is located in the geography where the borrower resides;

A home mortgage loan is located in the geography where the property to which the loan relates is located; and

A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

"Loan production office" means a staffed facility of a bank, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

"Metropolitan division" means a metropolitan division as defined by the United States Director of the Office of Management and Budget.

"Metropolitan Statistical Area" or "MSA" means a metropolitan statistical area as defined by the United States Director of the Office of Management and Budget.

"Nonmetropolitan area" means any area that is not located in an MSA.

"Qualified investment" means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

"Remote Service Facility" or "RSF" means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispersed, or money lent.

"Small Bank" means a bank that is a small bank under federal administrative rules established by the bank's primary federal financial supervisory agency pursuant to the federal Community Reinvestment Act and an intermediate small bank means a bank that is an intermediate small bank under federal administrative rules established by the bank's primary federal financial supervisory agency pursuant to the federal Community Reinvestment Act.

"Small business loan" means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income (Federal Financial Institution Examination Council (FFIEC) 031 and 041).

"Small farm loan" means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income (FFIEC 031 and 041).

"Special credit program" means any credit program offered by a bank to meet special social needs which is in conformity with and explicitly authorized by the Equal Credit Opportunity Act (15 U.S.C. 1691(c)) and Regulation B (12 C.F.R. 1002.8).

"Substantial majority" means a portion of the bank's lending activity so significant by number and dollar volume of loans that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded.

"Unbanked person" means an individual that does not have a checking or savings account with an insured depository institution.

"Underbanked person" means an individual that has a checking or saving account with an insured depository institution but that used financial products or services from a person other than an insured depository institution in the past 12 months.

"Very Small Bank" means a bank that is eligible for the Very Small Bank Examination Procedure set forth in Section 345.450(b).

"Wholesale bank" means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with Section 345.250(b).



## SUBPART B: STANDARDS OF ASSESSING PERFORMANCE

### Section 345.200 Assessment Factors

As used in this Part, "assessment factors" means the assessment of the following factors to determine whether a bank is meeting the financial services needs of local communities:

- a) activities to ascertain the financial services needs of the community, including communication with community members regarding the financial services provided;
- b) extent of marketing to make members of the community aware of the financial services offered;
- c) origination of mortgage loans including, but not limited to, home improvement and rehabilitation loans, and other efforts to assist existing low-income and moderate-income resident to be able to remain in affordable housing in their neighborhoods;
- d) for small business lenders, the origination of loans to businesses with gross annual revenues of \$1,000,000.00 or less, particularly those in low-income and moderate-income neighborhoods;
- e) participation, including investments, in community development and redevelopment programs, small business technical assistance programs, minority-owned depository institutions, community development financial institutions, and mutually owned financial institutions;
- f) efforts working with delinquent customers to facilitate a resolution of the delinquency;
- g) origination of loans that show an under concentration and a systemic pattern of lending resulting in the loss of affordable housing units;
- h) evidence of discriminatory and prohibited practices; and
- i) offering retail banking services to unbanked and underbanked persons.

**Section 345.210 Performance Tests, Standards, and Ratings, in General**

- a) Performance tests and standards. The Secretary assesses the ILCRA performance of a bank in an examination as follows:
  - 1) Lending, investment, and service tests. The Secretary applies the assessment factors, as provided in Section 345.200, and lending, investment, and service tests, as provided in Section 345.220 through 345.240, in evaluating the performance of a bank, except as provided in subsections (a)(2), (a)(3), and (a)(4) of this Section.
  - 2) Community development test for wholesale or limited purpose banks. The Secretary applies the community development test for a wholesale or limited purpose bank, as provided in Section 345.250, except as provided in subsection (a)(4) of this Section.
  - 3) Small bank performance standards. The Secretary applies the small bank performance standards as provided in Section 345.260 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in subsections (a)(1), (a)(2), or (a)(4) of this Section. The bank may elect to be assessed as provided in subsection (a)(1) of this Section only if it collects and reports the data required for other banks under Section 345.410.
  - 4) Strategic plan. The Secretary evaluates the performance of a bank under a strategic plan if the bank submits, and the Secretary approves, a strategic plan as provided in Section 345.270.
- b) Performance context. The Secretary applies the tests and standards in subsection (a) and also considers whether to approve a proposed strategic plan in the context of:
  - 1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area;
  - 2) Any information about lending, investment, and service opportunities in the bank's assessment area maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

- 3) The bank's product offerings and business strategy as determined from data provided by the bank;
  - 4) Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area;
  - 5) The bank's past performance and the performance of similarly situated lenders;
  - 6) The bank's public file, as described in Section 345.420, and any written comments about the bank's ILCRA performance submitted to the bank or the Secretary;
  - 7) The bank's public file, as described in 12 CFR 345.43, and any written comments about the bank's federal Community Reinvestment Act performance submitted to the bank or its federal regulator; and
  - 8) Any other information deemed relevant by the Secretary.
- c) Assigned ratings. The Secretary assigns to a bank one of the following four ratings pursuant to Section 345.280 and 345.APPENDIX A: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in Section 35-15(c) of the ILCRA. The rating assigned by the Secretary reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.
- d) Safe and sound operations. This Part and the ILCRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Secretary anticipates banks can meet the standards of this Part with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.
- e) Low-cost education loans provided to low-income borrowers. In assessing and taking into account the record of a bank under this Part, the Secretary considers, as a factor, low-cost education loans originated by the bank to borrowers, particularly in its assessment area, who have an individual income that is less than

50 percent of the area median income. For purposes of this subsection (e), "low-cost education loans" means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a state or local education loan program), originated by the bank for a student at an "institution of higher education", as that term is generally defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

- f) Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions. In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank under this Part, the Secretary considers as a factor capital investment, loan participation, and other ventures undertaken by the bank in cooperation with minority- and women-owned financial institutions and low-income credit unions, and the Secretary may consider favorably whether the minority- and women-owned financial institutions and low-income credit unions are organized under the laws of Illinois and/or are mutually-owned. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, activities need not also benefit the bank's assessment area or the broader Statewide or regional area that includes the bank's assessment area.

**Section 345.220 Lending Test**

- a) Scope of test.
  - 1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the Secretary will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans. In addition, at a bank's option, the Secretary will evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in Section 345.410(c)(1), the data for each category that the bank elects to have the Secretary evaluate.
  - 2) The Secretary considers originations and initial purchases of loans. The Secretary will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit.
  - 3) A bank may ask the Secretary to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with subsection (d). The Secretary will not consider these loans under any criterion of the lending test except the community development lending criterion.
- b) Performance criteria. The Secretary evaluates a bank's lending performance considering the assessment factors in Section 345.200 and pursuant to the following criteria:
  - 1) Lending activity. The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area;
  - 2) Geographic distribution. The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:
    - A) The proportion of the bank's lending in the bank's assessment area;

- B) The dispersion of lending in the bank's assessment area; and
  - C) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area.
- 3) Borrower characteristics. The distribution, particularly in the bank's assessment area, of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:
  - A) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;
  - B) Small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less;
  - C) Small business and small farm loans by loan amount at origination; and
  - D) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals.
- 4) Community development lending. The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and
- 5) Innovative or flexible lending practices. The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies. Innovative or flexible lending practices may include efforts working with delinquent customers to facilitate a resolution of the delinquency, in which case the bank shall maintain written loss mitigation/workout policies and procedures. In assessing performance pursuant to this Part, the Secretary shall consider whether a bank offers special credit programs. The bank must be able to show that the program will fall under any of the following:
  - A) Any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons;
  - B) Any credit assistance program offered by a not-for-profit organization for the benefit of its members or an economically disadvantaged class of persons; or

- C) Any special credit program offered by a for-profit organization, or in which the organization participates to meet special social needs, if it meets certain standards prescribed in 12 CFR 1002.8(a)(3)(i).
- c) Affiliate lending.
  - 1) At a bank's option, the Secretary will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to Section 345.410.
  - 2) The Secretary considers affiliate lending subject to the following constraints:
    - A) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase and in this regard the bank shall monitor and keep records of whether such claims exist; and
    - B) If a bank elects to have the Secretary consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the Secretary consider, in accordance with subsection (c)(1), all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.
  - 3) The Secretary does not consider affiliate lending in assessing a bank's performance under subsection (b)(2)(A).
- d) Lending by a consortium or a third party. Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:
  - 1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under Section 345.410(b)(2); and
  - 2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:
    - A) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase and in this regard the bank shall monitor and keep records of whether such claims exist; or

- B) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.
- e) Lending performance rating. The Secretary rates a bank's lending performance as provided in Section 345.APPENDIX A.



**Section 345.230 Investment Test**

- a) Scope of test. The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area through qualified investments that benefit its assessment area or a broader statewide or regional area that includes the bank's assessment area.
- b) Exclusion. Activities considered under the lending or service tests may not be considered under the investment test.
- c) Affiliate investment. At a bank's option, the Secretary will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution. If a bank has established a foundation, the Secretary will consider, at the bank's option, qualified investments and donations of the foundation if those investments or donations have the primary purpose of community development.
- d) Disposition of branch premises. Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.
- e) Performance criteria. The Secretary evaluates the investment performance of a bank considering the assessment factors in Section 345.200 and pursuant to the following criteria:
  - 1) The dollar amount of qualified investments;
  - 2) The innovativeness or complexity of qualified investments;
  - 3) The responsiveness of qualified investments to credit and community development needs; and
  - 4) The degree to which the qualified investments are not routinely provided by private investors.
- f) Investment performance rating. The Secretary rates a bank's investment performance as provided in Section 345.APPENDIX A.

**Section 345.240 Service Test**

- a) Scope of test. The service test evaluates a bank's record of helping to meet the credit needs of its assessment area by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.
- b) Area benefited. Community development services must benefit a bank's assessment area or a broader Statewide or regional area that includes the bank's assessment area.
- c) Affiliate service. At a bank's option, the Secretary will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution and in this regard the bank shall monitor and keep records of whether such claims exist.
- d) Performance criteria – retail banking services. The Secretary evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, considering the assessment factors in Section 345.200 and pursuant to the following criteria:
  - 1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;
  - 2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;
  - 3) The availability and effectiveness of alternative systems for delivering retail banking services (e.g., RSFs, surcharge-free RSFs within its network, RSFs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals;
  - 4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies; and

- 5) The bank's record of effectively marketing its retail banking services to unbanked or underbanked persons and offering retail banking services targeted to meet the needs of unbanked and underbanked persons. In determining whether a bank offers retail banking products and services targeted to meet the needs of unbanked and underbanked persons, the Department shall consider:
  - A) whether the bank offers accounts substantially and materially similar to BankOn certified accounts; or
  - B) whether the bank offers financial services and products to users of alternative financial products or services, provided that, that the bank has affirmatively and reasonably demonstrated that:
    - i) the bank offers such accounts or such financial services and products in conjunction with focused and sustained marketing efforts reasonably designed to reach unbanked and underbanked persons;
    - ii) unbanked and underbanked persons may reasonably conveniently obtain or use such accounts or such financial services and products; and
    - iii) the bank offers such accounts or such financial services and products at a cost to the unbanked and underbanked persons that is significantly lower than would otherwise be incurred by the users of alternative financial products or services.
- e) Performance criteria – community development services. The Secretary evaluates community development services considering the assessment factors in Section 345.200 and pursuant to the following criteria:
  - 1) The extent to which the bank provides community development services; and
  - 2) The innovativeness and responsiveness of community development services.
- f) Service performance rating. The Secretary rates a bank's service performance as provided in Section 345.APPENDIX A.

**Section 345.250 Community Development Test for Wholesale or Limited Purpose Banks**

- a) Scope of test. The FDIC assesses a wholesale or limited purpose bank's record of helping to meet the credit needs of its assessment area under the community development test through its community development lending, qualified investments, or community development services.
- b) Designation as a wholesale or limited purpose bank. In order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the Department, at least three months prior to the proposed effective date of the designation. If the Department approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the Department notifies the bank that the Department has revoked the designation on its own initiative.
- c) Performance criteria. The Secretary evaluates the community development performance of a wholesale or limited purpose bank considering the assessment factors in Section 345.200 and pursuant to the following criteria:
  - 1) The number and amount of community development loans (including originations and initial purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;
  - 2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and
  - 3) The bank's responsiveness to credit and community development needs.
- d) Indirect activities. At a bank's option, the Secretary will consider in its community development performance assessment:
  - 1) Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and
  - 2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in Section 345.220(c) and (d).
- e) Benefit to assessment area.

- 1) Benefit inside assessment area. The Secretary considers all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area or a broader Statewide or regional area that includes the bank's assessment area.
  - 2) Benefit outside assessment area. The Secretary considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area, if the bank has adequately addressed the needs of its assessment area.
- f) Community development performance rating. The Secretary rates a bank's community development performance as provided in Section 345.APPENDIX A.

**Section 345.260 Small Bank Performance Standards**

- a) Performance criteria.
  - 1) Small banks that are not intermediate small banks. The Secretary evaluates the record of a small bank that is not, or that was not during the prior calendar year, an intermediate small bank, of helping to meet the credit needs of its assessment area by considering the assessment factors in Section 345.200 and pursuant to the criteria set forth in subsection (b) of this Section.
  - 2) Intermediate small banks. The Secretary evaluates the record of a small bank that is, or that was during the prior calendar year, an intermediate small bank, of helping to meet the credit needs of its assessment area by considering the assessment factors in Section 345.200 and pursuant to the criteria set forth in subsections (b) and (c) of this Section.
- b) Lending test. A small bank's lending performance is evaluated pursuant to the following criteria:
  - 1) The bank's loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;
  - 2) The percentage of loans, and as appropriate, other lending-related activities located in the bank's assessment area;
  - 3) The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;
  - 4) The geographic distribution of the bank's loans; and
  - 5) The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area.
- c) Community development test. An intermediate small bank's community development performance also is evaluated pursuant to the following criteria:
  - 1) The number and amount of community development loans;

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- 2) The number and amount of qualified investments;
  - 3) The extent to which the bank provides community development services;  
and
  - 4) The bank's responsiveness to community development needs through  
activities addressing community development lending, investment, and  
services needs.
- d) Small bank performance rating. The Secretary considers the assessment factors in Section 345.200 and rates the performance of a bank evaluated under this Section as provided in Section 345.APPENDIX A.

**Section 345.270 Strategic Plan**

- a) Alternative election. The Secretary will assess a bank's record of helping to meet the credit needs of its assessment area considering the assessment factors in Section 345.200 under a strategic plan if:
  - 1) The bank has submitted the plan to the Secretary as provided for in this Section;
  - 2) The Secretary has approved the plan;
  - 3) The plan is in effect; and
  - 4) The bank has been operating under an approved plan for at least one year.
- b) Data reporting. The Secretary's approval of a plan does not affect the bank's obligation, if any, to report data as required by Section 345.410.
- c) Plans in general.
  - 1) Term. A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the Secretary will evaluate the bank's performance.
  - 2) Multiple assessment areas. A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.
  - 3) Treatment of affiliates. Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.
- d) Public participation in plan development. Before submitting a plan to the Secretary for approval, a bank shall:
  - 1) Informally seek suggestions from members of the public in its assessment areas covered by the plan while developing the plan;
  - 2) Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and



- 3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.
- e) Submission of plan. The bank shall submit its plan to the Secretary at least four months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.
- f) Plan content.
  - 1) Measurable goals.
    - A) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services as appropriate and considering the assessment factors in Section 345.200.
    - B) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment areas, considering public comment and the bank's capacity and constraints, product offerings, and business strategy.
  - 2) Confidential information. A bank may submit additional information to the Secretary on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the Secretary to judge the merits of the plan.
  - 3) Satisfactory and outstanding goals. A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the Secretary approves, both "satisfactory" and

"outstanding" performance goals, the Secretary will consider the bank eligible for an "outstanding" performance rating.

- 4) Election if satisfactory goals not substantially met. A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the Secretary will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

g) Plan approval.

- 1) Timing. The Secretary will act upon a plan within 90 calendar days after the Secretary receives the complete plan and other material required under subsection (e). If the Secretary fails to act within this time period, the plan shall be deemed approved unless the Secretary extends the review period in writing.
- 2) Public participation. In evaluating the plan's goals, the Secretary considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.
- 3) Criteria for evaluating plan. The Secretary considers the assessment factors in Section 345.200 and evaluates a plan's measurable goals using the following criteria, as appropriate:
  - A) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;
  - B) The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and
  - C) The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

h) Plan amendment. During the term of a plan, a bank may request the Secretary to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank shall develop an amendment to a previously

approved plan in accordance with the public participation requirements of subsection (d).

- i) Plan assessment. The Secretary approves the goals and assesses performance under a plan as provided for in Section 345.APPENDIX A.

**Section 345.280 Assigned Ratings**

- a) Ratings in general. Subject to subsections (b) and (c), the Secretary assigns to a bank a rating of "outstanding", "satisfactory", "needs to improve", or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests, the community development test, the small bank performance standards, or an approved strategic plan, as applicable.
- b) Lending, investment, and service tests. The Secretary assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:
  - 1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";
  - 2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and
  - 3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.
- c) Effect of evidence of discriminatory or other illegal credit practices.
  - 1) The Secretary's evaluation of a bank's ILCRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In connection with any type of lending activity described in Section 345.220(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:
    - A) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act (15 U.S.C. 1691-1691f) or the Fair Housing Act (42 U.S.C. 3601-19), including, for example, relying on or giving force or effect to discriminatory appraisals to deny loan applications where the covered financial institution knew or should have known of the discrimination;

- B) Violations of the Home Ownership and Equity Protection Act (15 U.S.C. 1639 and 1648);
  - C) Violations of section 5 of the Federal Trade Commission Act (15 U.S.C. 45);
  - D) Violations of section 8 of the Real Estate Settlement Procedures Act (12 U.S.C. 2607);
  - E) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission (15 U.S.C. 1635);
  - F) Violations of Article 4 (Financial Credit) of the Illinois Human Rights Act [775 ILCS 5/Art. 4];
  - G) Violations of the Illinois High Risk Home Loan Act [815 ILCS 137]; and
  - H) Violations of the Illinois Fairness in Lending Act [815 ILCS 120].
- 2) In determining the effect of evidence of practices described in subsection (c)(1) on the bank's assigned rating, the Secretary considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

**Section 345.290 Effect of ILCRA Performance on Applications**

- a) ILCRA performance. Among other factors, the Secretary takes into account the record of performance under the ILCRA of each applicant bank in considering an application for approval of:
  - 1) The relocation of the bank's main office or a branch, but only when express prior approval is otherwise required under applicable State law or administrative rule; and
  - 2) The merger, consolidation, acquisition of assets, or assumption of liabilities.
- b) New financial institutions. A newly chartered bank shall submit with its application for a permit to organize a description of how it will meet its ILCRA objectives. The Secretary takes the description into account in considering the application and may deny or condition approval on that basis.
- c) Interested parties. The Secretary takes into account any views submitted by interested parties in accordance with the public notice posted pursuant to Section 35-20 of ILCRA.
- d) Denial or conditional approval of application. A bank's record of performance may be the basis for denying or conditioning approval of an application listed in subsection (a).

SUBPART C: RECORDS, REPORTING, AND DISCLOSURE REQUIREMENTS;  
EXAMINATIONS

**Section 345.400 Assessment Area Delineation**

- a) In general. A bank shall delineate one or more assessment areas within which the Secretary evaluates the bank's record of helping to meet the credit needs of its community. The Secretary does not evaluate the bank's delineation of its assessment area as a separate performance criterion, but the Secretary reviews the delineation for compliance with the requirements of this Section.
- b) Geographic areas for wholesale or limited purpose banks. The assessment area for a wholesale or limited purpose bank must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking Automated Teller Machines (ATMs).
- c) Geographic areas for other banks. The assessment area for a bank other than a wholesale or limited purpose bank must:
  - 1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and
  - 2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking RSFs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).
- d) Adjustments to geographic areas. A bank may adjust the boundaries of its assessment area to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

- e) Limitations on the delineation of an assessment area. Each bank's assessment area:
  - 1) Must consist only of whole geographies;
  - 2) May not reflect illegal discrimination;
  - 3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and
  - 4) May not extend substantially beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond an MSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the MSA.
- f) Banks serving military personnel. Notwithstanding the requirements of this Section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.
- g) Use of assessment areas. The Secretary uses the assessment area delineated by a bank in its evaluation of the bank's ILCRA performance unless the Secretary determines that the assessment areas do not comply with the requirements of this Section.



**Section 345.410 Data Collection, Reporting, and Disclosure**

- a) Loan information required to be collected and maintained. A bank, except a small bank, shall collect, and maintain in machine readable form (as prescribed by the Secretary) until the completion of its next ILCRA examination, the following data for each small business or small farm loan originated or purchased by the bank:
  - 1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
  - 2) The loan amount at origination;
  - 3) The loan location; and
  - 4) An indicator whether the loan was to a business or farm with gross annual revenues of \$1 million or less.
- b) Loan information required to be reported. A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the Secretary in machine readable form (as prescribed by the Secretary) the following data for the prior calendar year:
  - 1) Small business and small farm loan data. For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:
    - A) With an amount at origination of \$100,000 or less;
    - B) With an amount at origination of more than \$100,000 but less than or equal to \$250,000;
    - C) With an amount at origination of more than \$250,000; and
    - D) To businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision);
  - 2) Community development loan data. For each geography in which the bank originated or purchased a community development loan, the aggregate number and aggregate amount of loans; and

- 3) Home mortgage loans. If the bank is subject to reporting under 12 CFR 1003 (Home Data Disclosure), the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of 12 CFR 1003 (Home Data Disclosure).
- c) Optional data collection and maintenance.
- 1) Consumer loans. A bank may collect and maintain in machine readable form (as prescribed by the Secretary) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:
    - A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
    - B) The loan amount at origination or purchase;
    - C) The loan location; and
    - D) The gross annual income of the borrower that the bank considered in making its credit decision.
  - 2) Other loan data. At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.
- d) Data on affiliate lending. A bank that elects to have the Secretary consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to subsections (a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under 12 CFR 1003 (Home Data Disclosure) by the affiliate.
- e) Data on lending by a consortium or a third party. A bank that elects to have the Secretary consider community development loans by a consortium or third party,

for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under subsection (b)(2) had the loans been originated or purchased by the bank.

- f) Small banks electing evaluation under the lending, investment, and service tests. A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to subsections (a) and (b).
- g) Assessment area data. A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the Secretary by March 1 of each year a list for each assessment area showing the geographies within the area.

**Section 345.420 Content and Availability of Public File**

- a) Information available to the public. A bank shall maintain a public file that includes the following information:
  - 1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;
  - 2) A copy of the public section of the bank's most recent ILCRA Performance Evaluation prepared by the Secretary. The bank shall place this copy in the public file within 30 business days after its receipt from the Secretary;
  - 3) A list of the bank's branches, their street addresses, and geographies;
  - 4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses and geographies;
  - 5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (e.g., RSFs, RSFs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, bank-at-work or bank-by-mail programs);
  - 6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and
  - 7) Any other information the bank chooses.
- b) Additional information available to the public.

- 1) Banks other than small banks. A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:
  - A) If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:
    - i) To low-, moderate-, middle-, and upper-income individuals;
    - ii) Located in low-, moderate-, middle-, and upper-income census tracts; and
    - iii) Located inside the bank's assessment area and outside the bank's assessment area; and
  - B) The bank's federal Community Reinvestment Act Disclosure Statement. The bank shall place the statement in the public file within three business days after its receipt from its appropriate federal financial supervisory agency.
- 2) Banks required to report Home Mortgage Disclosure Act (HMDA) data. A bank required to report home mortgage loan data pursuant 12 CFR 1003 (Home Disclosure Data) shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at [www.consumerfinance.gov/hmda](http://www.consumerfinance.gov/hmda). In addition, a bank that elected to have the Secretary consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank shall place the written notice in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement.
- 3) Small banks. A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:
  - A) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

- B) The information required for other banks by subsection (b)(1), if the bank has elected to be evaluated under the lending, investment, and service tests.
- 4) Banks with strategic plans. A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the Secretary on a confidential basis in conjunction with the plan.
- 5) Banks with less than satisfactory ratings. A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.
- c) Location of public information. A bank shall make available to the public for inspection upon request and at no cost the information required in this Section as follows:
  - 1) At the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and
  - 2) At each branch:
    - A) A copy of the public section of the bank's most recent ILCRA Performance Evaluation and a list of services provided by the branch; and
    - B) Within five calendar days after the request, all the information in the public file relating to the assessment area in which the branch is located.
- d) Copies. Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).
- e) Updating. Except as otherwise provided in this Section, a bank shall ensure that the information required by this Section is current as of April 1 of each year.

**Section 345.430 Public Notice by Banks**

A bank shall provide in the public lobby of its main office and each of its branches, if any, and on its website the appropriate public notice set forth in Section 345.APPENDIX B. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

**Section 345.440 Publication of Planned Examination Schedule**

The Secretary will publish, at least 30 days in advance of the beginning of each calendar quarter, a list of banks scheduled for ILCRA examinations in that quarter.



**Section 345.450 Alternative Examination Procedures**

- a) The Secretary may establish alternative examination procedures for banks which were rated "outstanding" as of their most recent ILCRA or federal Community Reinvestment Act examination. The purpose of the alternative procedures shall be to reduce the cost to these banks. The alternative procedures shall in no way limit public participation.
- b) At the time of examination any bank that satisfies either of the following eligibility standards as shown in its Year-end Call report and other related documentation may elect to use the Very Small Bank Examination Procedures set forth in subsection (j):
  - 1) Total assets less than \$25,000,000; or
  - 2) Total assets less than \$100,000,000 that lent or originated less than 50 residential mortgage loans reportable under the Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 461) in the previous calendar year. The \$100,000,000 threshold shall be adjusted so that it is equivalent to the corresponding threshold for state-chartered credit unions based on amendments made by the National Credit Union Administration from time to time in its definition of "small entity" for purposes of the federal Regulatory Flexibility Act (5 U.S.C. 601(6)). For purposes of this subsection (b), "lent" or "originated" means the bank was responsible for underwriting, making credit decisions for, issuing commitments for, or funding for the residential mortgage loan; "residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling; and "dwelling" means a residential structure or mobile home which contains one to four family housing units or individual units of condominiums or cooperatives. For purposes of this subsection (b), "lent" or "originated" does not include the performance of brokerage or referral activities.
- c) For any bank which elects to use the Very Small Bank Examination Procedures set forth in subsection (j) of this Section, the Secretary shall apply the assessment factors, as provided in Section 345.200. The written evaluation shall comply with all requirements for a written evaluation set forth in Section 15(b) of the ILCRA.

- d) Any bank which receives an overall rating of "substantial noncompliance" on its last examination shall not be eligible to use the Very Small Bank Examination Procedures set forth in subsection (j) on its next examination.
- e) Nothing contained in this Section prohibits the Secretary from considering other sources of information including, but not limited to, evidence of discriminatory or other illegal credit practices, or public comments in assessing whether a bank is meeting the financial services needs of local communities pursuant to Section 345.200.
- f) The Very Small Bank Examination Procedures set forth in subsection (j) shall in no way limit public participation.
- g) A bank electing to use the Very Small Bank Examination Procedures set forth in subsection (j) does not affect the bank's obligation, if any, to report data as required by Section 345.410.
- h) A bank electing to use the Very Small Bank Examination Procedures set forth in subsection (j) does not affect the bank's obligation to maintain an ILCRA file as required by Section 345.420.
- i) A bank that elects to use the Very Small Bank Examination Procedures set forth in subsection (j) shall have at least three months to complete the examination. The bank shall have the opportunity to review its proposed examination response with an examiner prior to the due date.
- j) Very Small Bank Examination Procedures. A bank qualifying under subsection (b) that elects to use the Very Small Bank Examination Procedures set forth in this subsection (j) shall submit to the Secretary in writing:
  - 1) Description of the bank's efforts to ascertain the financial services needs of the bank's assessment area, if any, and provide supporting documentation.
  - 2) Description of the extent of marketing, if any, to make the bank's assessment area aware of the financial services offered and provide supporting documentation.
  - 3) Description of the bank's efforts and successes, if any, to assist existing low-income and moderate-income residents in the bank's assessment area to be able to remain in affordable housing in their neighborhoods including, but not limited to, origination of mortgage loans including home improvement and rehabilitation loans. At the discretion of the Secretary, a bank shall also be required to submit to the Department:

- A) HMDA-LAR Quarterly Reports; or
- B) The following applicant information:
  - i) Application date;
  - ii) Loan type;
  - iii) Property type;
  - iv) Purpose;
  - v) Owner occupancy;
  - vi) Pre-approval;
  - vii) Loan action taken (details and date);
  - viii) Property address;
  - ix) Applicant's ethnicity;
  - x) Applicant's race;
  - xi) Applicant's sex; and
  - xii) Gross annual income.
- C) For small business lenders, the application and loan details regarding origination of loans to businesses in the bank's assessment area with gross annual revenues of \$1,000,000.00 or less, particularly those in low-income and moderate-income neighborhoods in the bank's assessment area.
- D) Description of the bank's participation, if any, including investments, in community development and redevelopment programs, small business technical assistance programs, minority-owned depository institutions, community development financial institutions, and mutually-owned financial institutions, if any, and provide supporting documentation.

- E) Description of the bank's efforts and successes working with delinquent customers in the bank's assessment area to facilitate a resolution of the delinquency and provide supporting documentation. At the discretion of the Secretary, a credit union shall also be required submit to the Department:
  - i) A delinquency report for the last six months;
  - ii) Collection notes for loans delinquent for sixty or more days; and
  - iii) Current loan status.
- F) Description of the bank's efforts and successes, if any, to offer retail banking services to unbanked and underbanked persons in the bank's assessment area and provide supporting documentation.
- G) Provide a written response to any public comments, if any, received since the bank's last ILCRA examination.
- H) Provide any other information the bank believes is relevant to assessing whether the bank is meeting the financial services needs of the bank's assessment area.

**Section 345.460 Examination Authority and Cooperation**

- a) Pursuant to the Secretary's authority under the ILCRA, including, but not limited to, Sections 35-15 and 35-25 of ILCRA, the Secretary or the Secretary's appointees may examine the entire books, records, documents, and operations of each bank or its affiliates or agents, and may examine any banks' or affiliates' or agents' officers, directors, employees, and agents under oath.
- b) A bank shall be required to fully cooperate in any examination conducted pursuant to this Part. Cooperation includes, but is not limited to:
  - 1) timely and full production of books, records, and documents, in any reasonable format requested by the Department; and
  - 2) ensuring all officers, directors, employees, and agents of the bank are available for depositions or interviews upon reasonable notice.
- c) Except as otherwise specified in ILCRA or this Part, examination related to this Part shall be conducted consistent with Section 48(2.1) of the Illinois Banking Act [205 ILCS 5], 38 Ill. Adm. Code 381, and accompanying guidelines.

**Section 345.470 Examination Frequency and Coordination**

- a) Subject to the provisions of this Section, the Secretary shall conduct examinations under the ILCRA or this Part in coordination with a bank's primary federal financial supervisory agency.
- b) Initial ILCRA examinations of banks shall be conducted according to the following schedule.
  - 1) Initial ILCRA examinations of banks with total assets of \$1 billion or more, as shown by its Year-end Call Report, shall not be conducted until at least February 1, 2025 and shall be conducted within three years.
  - 2) Initial ILCRA examinations of banks with total assets of \$391,000,000 to less than \$1 billion, as shown by its Year-end Call Report, shall not be conducted until at least February 1, 2025 and shall be conducted within four years.
  - 3) Initial ILCRA examinations of banks with total assets of \$10,000,000 but less than \$391,000,000, as shown by its Year-end Call Report, shall not be conducted until at least August 1, 2025 and shall be conducted within five years.
  - 4) Initial ILCRA examinations of banks with total assets of less than \$10,000,000, as shown by its Year-end Call Report, shall not be conducted until at least August 1, 2025 and shall be conducted within six years.
- c) For banks with total assets greater than \$391 million, and notwithstanding subsection (a), the Secretary shall conduct examinations under the ILCRA with the following frequency:
  - 1) For a bank that is assigned an "outstanding" or "satisfactory" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within three years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 2) For a bank that is assigned a "needs to improve" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within two years of the issuance of the report of examination of its most recent prior examination under the ILCRA.

- 3) For a bank that is assigned a "substantial noncompliance" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within one year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- d) For banks with total assets of \$391 million or less, and notwithstanding subsection (a), the Secretary shall conduct examinations under the ILCRA with the following frequency:
  - 1) For a bank that is assigned an "outstanding" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within five years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 2) For a bank that is assigned a "satisfactory" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within four years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 3) For a bank that is assigned a "needs to improve" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within two years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 4) For a bank that is assigned "substantial noncompliance" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within one year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- e) Notwithstanding the provisions of this Section, the Secretary may:
  - 1) conduct an examination at any time upon finding:
    - A) a bank's primary federal financial supervisory agency has rated the bank, as of its most recent examination, in "substantial noncompliance" with the federal Community Reinvestment Act;
    - B) substantial evidence of discriminatory or other illegal credit practices; or
    - C) the Secretary otherwise finds sufficient cause; or

- 2) notwithstanding subsections (b)(1) and (c)(1), extend by one year the time between examination of any bank or banks with an "outstanding" or "satisfactory" rating if the Secretary finds that an extension is necessitated by:
  - A) the need to examine or investigate a bank or banks with a "needs to improve" or "substantial noncompliance" rating; or
  - B) the need to examine or investigate a bank or banks showing substantial evidence of illegal credit practices.
- f) Notwithstanding any other provision of this Section, the Secretary may examine a bank at any time as authorized by the ILCRA. In the case of an examination pursuant to this Section 345.470(d)(1), the procedures in Section 345.450(b)-(j) shall not apply.
- g) For purposes of this Section, a bank's total assets shall be as reported on the bank's Consolidated Report of Condition and Income contemporaneous with the bank's most recent prior examination.



**Section 345.480 Examination Fees**

- a) Annual fees. Each fiscal year, banks shall pay an annual ILCRA fee to the Department based upon its total assets as shown by its Consolidated Report of Condition and Income for the quarter ending March 31, at the following rates:

<b>TOTAL ASSETS</b>	<b>ILCRA ANNUAL FISCAL YEAR 2025 FEE</b>	<b>ILCRA ANNUAL FISCAL YEAR 2026 FEE</b>
\$1,000,000 or less	No charge	No charge
Over \$1,000,000 and not over \$10,000,000	No charge	No charge
Over \$10,000,000 and not over \$30,000,000	\$1,000	\$1,050
Over \$30,000,000 and not over \$50,000,000	\$2,000	\$2,100
Over \$50,000,000 and not over \$100,000,000	\$3,000	\$3,150
Over \$100,000,000 and not over \$350,000,000	\$4,500	\$4,725
Over \$350,000,000 and over \$500,000,000	\$9,000	\$9,450
Over \$500,000,000 and not over \$1,000,000,000	\$13,000	\$13,650
Over \$1,000,000,000 and not over \$10,000,000,000	\$18,000	\$18,900
Over \$10,000,000,000	\$24,000	\$25,000

- b) Out-of-state travel expenses. When out-of-state travel occurs in the conduct of any examination, the bank shall make arrangements to reimburse the Department all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).
- c) All fees received pursuant to this Part shall be deposited in the Bank and Trust Company Fund and subject to Section 48(3) of the Illinois Banking Act.

- d) Notwithstanding Section 345.490, the fee for fiscal year 2025 shall be due on September 1, 2024. The fee for each fiscal year thereafter shall be due within 30 days after the start of each fiscal year. For purposes of this Section, "fiscal year" means a period beginning on July 1 of any calendar year and ending on June 30 of the next calendar year.

**Section 345.490 Implementation Period**

- a) Banks with total assets of \$391,000,000 or more shall comply with this Part by February 1, 2025.
- b) Banks with total assets of less than \$391,000,000 shall comply with this Part by August 1, 2025.
- c) The Secretary may conduct an examination at any time upon finding:
  - 1) a bank's primary federal financial supervisory agency has rated the bank, as of its most recent examination, in "substantial noncompliance" with the federal Community Reinvestment Act;
  - 2) substantial evidence of discriminatory or other illegal credit practices; or
  - 3) the Secretary otherwise finds sufficient cause.
- d) For purposes of Section 345.470, with regard to the timing of the initial examination of a bank under ILCRA, the "most recent prior exam under the ILCRA" shall be read as the most recent examination under the federal Community Reinvestment Act.

**Section 345.500 Enforcement**

Failure to comply with any requirement under the ILCRA, this Part or other law referenced in the ILCRA, shall be grounds for enforcement actions as authorized under the ILCRA and under the Illinois Banking Act, Savings Bank Act, or Foreign Banking Office Act, as applicable to the particular bank. Any failure to comply with a requirement of the ILCRA may also be grounds for referral to law enforcement or an administrative authority with jurisdiction over the subject matter. In addition to any other action authorized by law, the Secretary may enter agreed orders, stipulations, or settlement agreements for the purpose of resolving any failure to comply.

**Section 345.APPENDIX A Ratings**

- a) Ratings in general.
  - 1) In assigning a rating, the Secretary evaluates a bank's performance under the applicable performance criteria in this part, in accordance with Sections 345.210 and 345.280. This includes consideration of low-cost education loans provided to low-income borrowers activities in cooperation with minority- or women-owned financial institutions and low-income credit unions, and the offering of Special Credit Programs, as well as adjustments on the basis of evidence of discriminatory or other illegal credit practices.
  - 2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.
- b) Banks evaluated under the lending, investment, and service tests.
  - 1) Lending performance rating. The Secretary assigns each bank's lending performance one of the five following ratings.
    - A) Outstanding. The Secretary rates a bank's lending performance "outstanding" if, in general, it demonstrates:
      - i) Excellent responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area;
      - ii) A substantial majority of its loans are made in its assessment area;
      - iii) An excellent geographic distribution of loans in its assessment area;
      - iv) An excellent distribution, particularly in its assessment area, of loans among individuals of different income levels

and businesses (including farms) of different sizes, given the product lines offered by the bank;

- v) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area, low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;
- vi) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
- vii) It is a leader in making community development loans.

B) High satisfactory. The Secretary rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

- i) Good responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area;
- ii) A high percentage of its loans are made in its assessment area;
- iii) A good geographic distribution of loans in its assessment area;
- iv) A good distribution, particularly in its assessment area, of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
- v) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area, low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;
- vi) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

- vii) It has made a relatively high level of community development loans.
- C) Low satisfactory. The Secretary rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:
  - i) Adequate responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area;
  - ii) An adequate percentage of its loans are made in its assessment area;
  - iii) An adequate geographic distribution of loans in its assessment area;
  - iv) An adequate distribution, particularly in its assessment area, of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
  - v) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area, low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;
  - vi) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
  - vii) It has made an adequate level of community development loans.
- D) Needs to improve. The Secretary rates a bank's lending performance "needs to improve" if, in general, it demonstrates:
  - i) Poor responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area;

- ii) A small percentage of its loans are made in its assessment area;
  - iii) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area;
  - iv) A poor distribution, particularly in its assessment area, of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
  - v) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area, low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;
  - vi) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
  - vii) It has made a low level of community development loans.
- E) Substantial noncompliance. The Secretary rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:
- i) A very poor responsiveness to credit needs in its assessment area, taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area;
  - ii) A very small percentage of its loans are made in its assessment area;
  - iii) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area;
  - iv) A very poor distribution, particularly in its assessment area, of loans among individuals of different income levels and



businesses (including farms) of different sizes, given the product lines offered by the bank;

- v) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area, low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;
- vi) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
- vii) It has made few, if any, community development loans.

2) Investment performance rating. The Secretary assigns each bank's investment performance one of the five following ratings:

A) Outstanding. The Secretary rates a bank's investment performance "outstanding" if, in general, it demonstrates:

- i) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;
- ii) Extensive use of innovative or complex qualified investments; and
- iii) Excellent responsiveness to credit and community development needs.

B) High satisfactory. The Secretary rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

- i) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;
- ii) Significant use of innovative or complex qualified investments; and
- iii) Good responsiveness to credit and community development needs.

- C) Low satisfactory. The Secretary rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:
    - i) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;
    - ii) Occasional use of innovative or complex qualified investments; and
    - iii) Adequate responsiveness to credit and community development needs.
  - D) Needs to improve. The Secretary rates a bank's investment performance "needs to improve" if, in general, it demonstrates:
    - i) A poor level of qualified investments, particularly those that are not routinely provided by private investors;
    - ii) Rare use of innovative or complex qualified investments; and
    - iii) Poor responsiveness to credit and community development needs.
  - E) Substantial noncompliance. The Secretary rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:
    - i) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;
    - ii) No use of innovative or complex qualified investments; and
    - iii) Very poor responsiveness to credit and community development needs.
- 3) Service performance rating. The Secretary assigns each bank's service performance one of the five following ratings.
- A) Outstanding. The Secretary rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

- i) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area;
  - ii) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
  - iii) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area, particularly low- or moderate-income geographies or low- or moderate-income individuals; and
  - iv) It is a leader in providing community development services.
- B) High satisfactory. The Secretary rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:
  - i) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area;
  - ii) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;
  - iii) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area, particularly low- and moderate-income geographies and low- and moderate-income individuals; and
  - iv) It provides a relatively high level of community development services.

- C) Low satisfactory. The Secretary rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:
- i) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area;
  - ii) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;
  - iii) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area, particularly low- and moderate-income geographies and low- and moderate-income individuals; and
  - iv) It provides an adequate level of community development services.
- D) Needs to improve. The Secretary rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:
- i) Its service delivery systems are unreasonably inaccessible to portions of its assessment area, particularly to low- or moderate-income geographies or to low- or moderate-income individuals;
  - ii) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
  - iii) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area, particularly low- or moderate-income geographies or low- or moderate-income individuals; and

- iv) It provides a limited level of community development services.
  - E) Substantial noncompliance. The Secretary rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:
    - i) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area, particularly to low- or moderate-income geographies or to low- or moderate-income individuals;
    - ii) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
    - iii) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area, particularly low- or moderate-income geographies or low- or moderate-income individuals; and
    - iv) It provides few, if any, community development services.
- c) Wholesale or limited purpose banks. The Secretary assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.
  - 1) Outstanding. The Secretary rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:
    - A) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
    - B) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and
    - C) Excellent responsiveness to credit and community development needs in its assessment area.

- 2) Satisfactory. The Secretary rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:
  - A) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
  - B) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and
  - C) Adequate responsiveness to credit and community development needs in its assessment area.
- 3) Needs to improve. The Secretary rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:
  - A) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
  - B) Rare use of innovative or complex qualified investments, community development loans, or community development services; and
  - C) Poor responsiveness to credit and community development needs in its assessment area.
- 4) Substantial noncompliance. The Secretary rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:
  - A) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
  - B) No use of innovative or complex qualified investments, community development loans, or community development services; and

- C) Very poor responsiveness to credit and community development needs in its assessment area.
- d) Banks evaluated under the small bank performance standards –
- 1) Lending test ratings.
    - A) Eligibility for a satisfactory lending test rating. The Secretary rates a small bank's lending performance "satisfactory" if, in general, the bank demonstrates:
      - i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area, and taking into account, as appropriate, other lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;
      - ii) A majority of its loans and, as appropriate, other lending-related activities, are in its assessment area;
      - iii) A distribution of loans to and, as appropriate, other lending-related activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area;
      - iv) A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area; and
      - v) A reasonable geographic distribution of loans given the bank's assessment area.
    - B) Eligibility for an "outstanding" lending test rating. A small bank that meets each of the standards for a "satisfactory" rating under this subsection and exceeds some or all of those standards may warrant consideration for a lending test rating of "outstanding."
    - C) Needs to improve or substantial noncompliance ratings. A small bank may also receive a lending test rating of "needs to improve"

or "substantial noncompliance depending on the degree to which its performance has failed to meet the standard for a "satisfactory" rating.

- 2) Community development test ratings for intermediate small banks.
  - A) Eligibility for a satisfactory community development test rating. The Secretary rates an intermediate small bank's community development performance "satisfactory" if the bank demonstrates adequate responsiveness to the community development needs of its assessment area through community development loans, qualified investments, and community development services. The adequacy of the bank's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's assessment area.
  - B) Eligibility for an outstanding community development test rating. The Secretary rates an intermediate small bank's community development performance "outstanding" if the bank demonstrates excellent responsiveness to community development needs in its assessment area through community development loans, qualified investments, and community development services, as appropriate, considering the bank's capacity and the need and availability of such opportunities for community development in the bank's assessment area.
  - C) Needs to improve or substantial noncompliance ratings. An intermediate small bank may also receive a community development test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.
- 3) Overall rating.
  - A) Eligibility for a satisfactory overall rating. No intermediate small bank may receive an assigned overall rating of "satisfactory" unless it receives a rating of a least "satisfactory" on both the lending test and the community development test.
  - B) Eligibility for an outstanding overall rating.



- i) An intermediate small bank that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an assigned overall rating of "outstanding."
    - ii) A small bank that is not an intermediate small bank that meets each of the standards for a "satisfactory" rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the Secretary considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area.
  - C) Needs to improve or substantial noncompliance overall ratings. A small bank may also receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.
- e) Strategic plan assessment and rating.
- 1) Satisfactory goals. The Secretary approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area.
  - 2) Outstanding goals. If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the Secretary will approve those goals as "outstanding."
  - 3) Rating. The Secretary assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:
    - A) If the bank substantially achieves its plan goals for a satisfactory rating, the Secretary will rate the bank's performance under the plan as "satisfactory."
    - B) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the

Secretary will rate the bank's performance under the plan as "outstanding."

- C) If the bank fails to meet substantially its plan goals for a satisfactory rating, the Secretary will rate the bank as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in Section 345.270(f)(4).

**Section 345.APPENDIX B ILCRA Notice**

- a) Notice for main offices and, if an interstate bank, one branch office in each state.

**Community Reinvestment Act Notice**

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary of the Department of Financial and Professional Regulation (Secretary) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent ILCRA Performance Evaluation, prepared by the Secretary; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Secretary publishes a list of the banks that are scheduled for ILCRA examination in that quarter. This list is available from the Secretary at 320 West Washing Street, 3<sup>rd</sup> Floor Springfield, IL 62786 and 555 West Monroe Street, Suite 500 Chicago, IL 60661. You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Secretary. You may also submit comments electronically through the Department's Web site at <https://idfpr.illinois.gov/admin/cra.html>. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary.

We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the ILCRA filed by bank holding companies.

- b) Notice for branch offices.

### Illinois Community Reinvestment Act Notice

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA. You may review today the public section of our most recent ILCRA evaluation, prepared by the Secretary, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us:

- 1) a map showing the assessment area containing this branch, which is the area in which the Secretary evaluates our ILCRA performance in this community;
- 2) information about our branches in this assessment area;
- 3) a list of services we provide at those locations;
- 4) data on our lending performance in this assessment area; and
- 5) copies of all written comments received by us that specifically relate to our ILCRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

(If you would like to review information about our ILCRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).)

At least 30 days before the beginning of each quarter, the Secretary publishes a nationwide list of the banks that are scheduled for ILCRA examination in that quarter. This list is available from the Secretary (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and the Secretary. You may also submit comments electronically through the Department's Web site at [web address]. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of \_\_\_\_\_ (address) an announcement of applications covered by the ILCRA filed by bank holding companies.

**Section 345.APPENDIX C Examples of Community Development**

Examples of services, programs, sponsorships, donations, lawful investments, deposits, membership shares, grants, and other activities which may be deemed to have the primary purpose of community development include, but are not limited to the following:

- a) Establishment of or material support of charitable donation accounts and donor advised funds that benefit charitable organizations which help meet the financial services needs of low-income and moderate-income neighborhoods or individuals within the bank's assessment area;
- b) Establishment of or material support of foundations and other affiliated companies that provide programs and services to meet the credit needs of low-income to moderate-income neighborhoods;
- c) Material support of small banks as defined in Section 345.20 that provide programs, products and services to meet the credit needs of low-income to moderate-income individuals or families;
- d) Offering products and services targeted to expand access to safe and affordable banking services;
- e) Provision or support of community development services that directly and tangibly benefit the assessment area;
- f) Offering products and services and/or provision of investments targeted to directly and tangibly increase climate resilience in low-income to moderate-income neighborhoods;
- g) Offering products and services and or provision of investments targeted to directly and tangibly mitigate environmental harm in low-income to moderate-income neighborhoods;
- h) Offering products and services and/or the provision of investments targeted to directly and tangibly mitigate the digital divide in low-income and moderate-income neighborhoods;
- i) Participating in Invest in Illinois or other similar state or federal programs which have the primary purpose of community development;
- j) Participating in an activity listed on the Office of the Comptroller of the Currency's CRA Illustrative List of Qualifying Activities found on the Office's

website. The Secretary shall post a link to the Office of the Comptroller of the Currency's CRA Illustrative List of Qualifying Activities on the Department's website.