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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS

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BANK COMMUNITY REINVESTMENT

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

SOURCE: Adopted at 47 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 345.10 Authority, Purposes, and Scope

- a) The Illinois Community Reinvestment Act (ILCRA) [205 ILCS 735/35-1 *et seq.*] 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 of this Part. 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 USC 2901 *et seq.*; see also 12 CFR Part 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.

Accordingly, this Part (i) may include references to federal statutes or administrative rules established pursuant to the federal Community Reinvestment Act and (ii) except where this subpart makes adjustments or exceptions to the federal administrative 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.

- (1) Establishment of rules as required by Section 35-10(c) of the ILCRA.

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- (2) 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 paragraph (c)(3) of this section, 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.

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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.

Remote Service Facility (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.

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 a banking office of a foreign banking corporation issued a certificate of authority under the Foreign Banking Office Act [205 ILCS 645] and, as applicable under this Part, any affiliates thereof.

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

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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.

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

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

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.

Disparity Study means a study conducted by or on behalf of the Department pursuant to [Section 345.210\(g\)](#).

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 of this title and that is not an excluded transaction under 12 CFR 1003.3(c)(1) through (10) and (13).

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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. 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.

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Metropolitan Statistical Area (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.

Protected Characteristic means any basis for which discrimination is prohibited by a law for which a bank is examined for compliance under this Part, including but not limited to, under the Illinois Human Rights Act for example, race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

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

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.

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.

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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.

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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 of this subpart, 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 paragraphs (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 paragraph (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 paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (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 paragraph (a) of this section 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(s);
 - 2) Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

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- 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(s);
 - 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 of this Part: "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.

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- 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(s), who have an individual income that is less than 50 percent of the area median income. For purposes of this paragraph, “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, such activities need not also benefit the bank’s assessment area(s) or the broader statewide or regional area that includes the bank’s assessment area(s).
- g) Disparity Study. The Secretary may retain qualified persons to design and conduct a study to, and prepare and report findings and conclusions to the Secretary (1) to identify and describe geographies in Illinois exhibiting significant disparities by race or other protected characteristics in access to relevant financial products or services, and (2) to develop methods and procedures to identify policies, procedures, patterns, or practices that have disparate impact or discriminatory effects. Following the publication of this study, the Secretary may incorporate the findings, conclusions and other results from the study into the examination process.

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- a) *Scope of test.*
- 1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) 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 paragraph (d) of this section. 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(s);
 - 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(s);

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- B) The dispersion of lending in the bank's assessment area(s); ~~and~~
 - C) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s); and
 - D) The number and amount of loans in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under section 345.210(g).
- 3) *Borrower characteristics.* The distribution, particularly in the bank's assessment area(s), 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; and
 - E) Home mortgage, small business, small farm, and consumer loans, if applicable, to members of identified racial or other groups in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under section 345.210(g).
- 4) *Community development lending.* The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness, as well as the bank's community development lending performance in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to community development loans by a Disparity

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Study incorporated into the examination process under section 345.210(g);
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. Such 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: (1) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons; (2) 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 (3) any special credit program offered by a for-profit organization, or in which such an organization participates to meet special social needs, if it meets certain standards prescribed in 12 C.F.R. § 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 paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

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- 3) The Secretary does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(A) of this section.
- 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 345.APPENDIX A of this part.

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(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).
- 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.

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- 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; ~~and-~~
 - 5) The bank's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to qualified investments by a Disparity Study incorporated into the examination process under section 345.210(g).
- f) *Investment performance rating.* The Secretary rates a bank's investment performance as provided in 345.APPENDIX A of this part.

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(s) 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(s) benefited.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).
- 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

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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, RSFs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and
 - 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.
 - 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:

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- 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.

6) The bank's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to retail banking services by a Disparity Study incorporated into the examination process under section 345.210(g).

- 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-; and
- 3) The bank's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to community development services by a Disparity Study incorporated into the examination process under section 345.210(g).

- f) *Service performance rating.* The Secretary rates a bank's service performance as provided in 345.APPENDIX A of this part.

Section 345.250 Community Development Test for Wholesale or Limited Purpose Banks

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- 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(s) 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(s)—*

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

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(s) by considering the assessment factors in Section 345.200 and pursuant to the criteria set forth in paragraph (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(s) by considering the assessment factors in Section 345.200 and pursuant to the criteria set forth in paragraphs (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;

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- 2) The percentage of loans, and as appropriate, other lending-related activities located in the bank's assessment area(s);
 - 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(s).
- 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;
 - 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 through such activities to 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 345.APPENDIX A of this part.

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(s) 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;

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- 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 area(s) 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

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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 area(s), 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.

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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 paragraph (e) of this section. 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 paragraph (d) of this section.

i) *Plan assessment.* The Secretary approves the goals and assesses performance under a plan as provided for in 345.APPENDIX A of this part.

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Section 345.280 Assigned Ratings

- a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, 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 or the Fair Housing Act, 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;

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- C) Violations of section 5 of the Federal Trade Commission Act;
 - D) Violations of section 8 of the Real Estate Settlement Procedures Act;
 - E) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;
 - 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 paragraph (c)(1) of this section 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

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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 paragraph (a) of this section.

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(s) as a separate performance criterion, but the Secretary reviews the delineation for compliance with the requirements of this section.
- b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) 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 ATM's.
- c) *Geographic area(s) for other banks.* The assessment area(s) 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

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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 area(s).* A bank may adjust the boundaries of its assessment area(s) 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(s):
 - 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 area(s).* The Secretary uses the assessment area(s) delineated by a bank in its evaluation of the bank's ILCRA performance unless the Secretary determines that the assessment area(s) do not comply with the requirements of this section.

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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 information required by Section 1071 of the Dodd-Frank Act, 15 U.S.C. § 1691c-2, and the Consumer Financial Protection Bureau's implementing rules, and](#) 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

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number and aggregate amount of ~~community development~~ loans
~~originated or purchased~~; and

- 3) *Home mortgage loans.* If the bank is subject to reporting under 12 CFR Part 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 Part 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 paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared

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to identify the home mortgage loans reported under 12 CFR Part 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 paragraph (b)(2) of this section 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 paragraphs (a) and (b) of this section.
- 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;

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- 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, and 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(s) and outside the bank's assessment area(s); and
 - B) The bank's federal Community Reinvestment Act Disclosure Statement. The bank shall place the statement in the public file

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within three business days of 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 Part 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) Web site at 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 Web site. The bank shall place the written notice(s) 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(s).
- 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 paragraph (b)(1) of this section, 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.

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- 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 of 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 345.APPENDIX B of this part. 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 publishes 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

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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 such alternative procedures shall be to reduce the cost to such banks. The alternative procedures shall in no way limit public participation.

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 thereof, the Secretary and his or her 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 205 ILCS 5/48(2.1), 38 Ill. Adm. Code Part 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) For banks with total assets greater than \$250 million, and notwithstanding subsection (a) of this section, 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 3 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.

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- 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 2 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 1 year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- c) For banks with total assets of \$250 million or less, and notwithstanding subsection (a) of this Section, 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 5 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 4 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 2 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 1 year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- d) Notwithstanding the provisions of this Section, the Secretary may:
- 1) conduct an examination at any time upon finding (i) 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, (ii) substantial evidence of discriminatory

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or other illegal credit practices, or (iii) the Secretary otherwise finds sufficient cause; or

- 2) notwithstanding subsections (b)(1) and (c)(1) of this Section, 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 (i) the need to examine or investigate a bank or banks with a “needs to improve” or “substantial noncompliance” rating or (ii) the need to examine or investigate a bank or banks showing substantial evidence of illegal credit practices.
- e) Notwithstanding any other provision of this Section, the Secretary may examine a bank at any time as authorized by the ILCRA.
- f) 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) Hourly Rate and Out-of-State Travel Expenses
 - 1) Time expended in the conduct of any examination of a bank or its affiliates pursuant to Section 35-15 of the ILCRA shall be billed by the Department at a rate of \$2,200 per day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing. The examination fee shall increase up to 5% annually.
 - 2) 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).
- b) Assessments. Each bank shall pay to the Department its pro rata share of the cost for administration of the ILCRA for banks that exceeds the examination fees paid pursuant to subsection (a) of this Section, as estimated by the Department, for the current year and any deficit actually incurred in the administration of the Act in

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prior years. The aggregate assessment may not increase by more than 5% annually. In addition to this assessment, banks with a current rating of “needs to improve” or “substantial noncompliance” may be assessed a surcharge, and in that case, the assessment on other banks shall be reduced in amount equal to such surcharge. The aggregate surcharge shall not be greater than an amount equal to 20% of the cost for administration of the ILCRA that exceeds the examination fees paid pursuant to subsection (a) of this Section. Each bank’s pro rata share of an assessment shall be the percentage that the assets shown on the bank’s Consolidated Report of Condition and Income [FFIEC 031 and 041] bears to the total assets of all banks covered by the ILCRA. Each bank’s pro rata share of a surcharge shall be the percentage that the assets shown on the bank’s Consolidated Report of Condition and Income [FFIEC 031 and 041] bears to the total assets of all banks subject to a surcharge and covered by the ILCRA.

- c) All fees received pursuant to this Part shall be deposited in the Bank and Trust Company Fund.

Section 345.490 Implementation Period

- a) Banks shall have six months from the effective date of this Part to comply with the requirements of this Part.
- b) The Secretary shall not cause an examination to be initiated under the ILCRA or this Part for one year after the implementation period of subsection (a) of this Section ends; provided that, the Secretary may conduct an examination at any time upon finding (i) 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, (ii) substantial evidence of discriminatory or other illegal credit practices, or (iii) the Secretary otherwise finds sufficient cause.
- c) For purposes of Section 345.470 of this Part, 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

~~Any failure~~Failure to comply with ~~a any~~ requirement ~~of under~~ the ILCRA, this Part or other law referenced in the ILCRA, ~~or this Part~~ shall be subject to 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 such failure to comply with a

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requirement of the ILCRA may also be ~~subject to grounds for~~ referral to law enforcement or ~~an~~ administrative authority with jurisdiction over the subject matter ~~of such failure to comply~~. In addition to any other action authorized by ~~ILCRA law, this Part or any other law,~~ the Secretary may enter agreed ~~upon~~ orders, stipulations or ~~enter into~~ settlement agreements for the purpose of resolving any such failure to comply.

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, ~~and~~ 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(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
 - ii) A substantial majority of its loans are made in its assessment area(s);

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- iii) An excellent geographic distribution of loans in its assessment area(s);
 - iv) An excellent distribution, particularly in its assessment area(s), 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(s), 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; ~~and-~~
 - viii) An excellent distribution of loans among individuals of different racial or other protected characteristics in areas, if any, particularly in parts of its assessment area, identified as exhibiting significant disparities by race or other protected characteristics in access to lending products and services by a Disparity Study incorporated into the examination process under section 345.210(g) as compared to the baseline distributions in those areas as identified by the study.
- 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(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
 - ii) A high percentage of its loans are made in its assessment area(s);

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- iii) A good geographic distribution of loans in its assessment area(s);
 - iv) A good distribution, particularly in its assessment area(s), 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(s), 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(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
 - ii) An adequate percentage of its loans are made in its assessment area(s);
 - iii) An adequate geographic distribution of loans in its assessment area(s);
 - iv) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

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- v) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), 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(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
 - ii) A small percentage of its loans are made in its assessment area(s);
 - iii) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);
 - iv) A poor distribution, particularly in its assessment area(s), 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(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

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- 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(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
 - ii) A very small percentage of its loans are made in its assessment area(s);
 - iii) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);
 - iv) A very poor distribution, particularly in its assessment area(s), 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(s), 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:

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- 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; ~~and~~
 - iv) Excellent performance in the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to qualified investments by a Disparity Study incorporated into the examination process under section 345.210(g) as compared to the baseline performance levels in those areas as identified by the study.
- 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;

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- 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(s);

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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(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; ~~and~~

(iv) It is a leader in providing community development services; ~~and~~

v) Excellent performance in the above criteria in areas, if any, particularly in parts of its assessment area, identified as exhibiting significant disparities by race or other protected characteristics in access to community development services by a Disparity Study incorporated into the examination process under section 345.210(g) as compared to the baseline performance levels in those areas as identified by the study.

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(s);

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(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

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- 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(s);
 - 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(s), 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(s), 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;

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- iii) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), 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(s), 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(s), 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;

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- 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(s).
- 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(s).
- 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(s).
- 4) Substantial noncompliance. The Secretary rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:

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- 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(s).
- 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(s), 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(s);
 - iv) A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank's

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performance in helping to meet the credit needs of its assessment area(s); and

- v) A reasonable geographic distribution of loans given the bank's assessment area(s).
 - B) Eligibility for an "outstanding" lending test rating. A small bank that meets each of the standards for a "satisfactory" rating under this paragraph 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(s) 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(s).
 - 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(s) 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(s).

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- 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(s).
 - 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.

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- 1) Satisfactory goals. The Secretary approves as “satisfactory” measurable goals that adequately help to meet the credit needs of the bank’s assessment area(s).
- 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).

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.

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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, 3rd 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.asp>. 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

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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.

345.APPENDIX C Examples of Community Development

Examples of services, programs, sponsorships, donations, lawful investments, deposits, membership shares, ~~and~~ 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 credit union'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) Establishment of Offering products and services targeted to expand access to safe and affordable banking services;

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- d) Provision or support of community development services that directly and tangibly benefit the assessment area;
- e) ~~Offering Establishment of~~ products and services and/or provision of investments targeted to directly and tangibly increase climate resilience in low-income to moderate- income neighborhoods;
- f) ~~Offering Establishment of~~ products and services and or provision of investments targeted to directly and tangibly mitigate environmental harm in low-income to moderate- income neighborhoods; ~~and~~
- g) Participating in Invest in Illinois or other similar state or federal programs which have the primary purpose of community development; and
- hg) Participating in A an activity listed on the Office of the Comptroller of the Currency's CRA Illustrative List of Qualifying Activities (May 20, 2020).