

§ 563e.21

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

(3) 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.

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

(q) *Metropolitan division* means a metropolitan division as defined by the Director of the Office of Management and Budget.

(r) *MSA* means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Nonmetropolitan area* means any area that is not located in an MSA.

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

(u) *Small savings association*—(1) *Definition*. *Small savings association* means a savings association that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.098 billion. *Intermediate small savings association* means a small savings association with assets of at least \$274 million as of December 31 of both of the prior two calendar years and less than \$1.098 billion as of December 31 of either of the prior two calendar years.

(2) *Adjustment*. The dollar figures in paragraph (u)(1) of this section shall be adjusted annually and published by the OTS, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

(v) *Small business loan* means a loan included in “loans to small businesses” as defined in the instructions for preparation of the Thrift Financial Report.

(w) *Small farm loan* means a loan included in “loans to small farms” as defined in the instructions for preparation of the Thrift Financial Report.

(x) *Wholesale savings association* means a savings association that is not

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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 savings association is in effect, in accordance with § 563e.25(b).

[60 FR 22212, May 4, 1995, as amended at 60 FR 66050, Dec. 20, 1995; 61 FR 21364, May 10, 1996; 69 FR 41188, July 8, 2004; 69 FR 51161, Aug. 18, 2004; 71 FR 18618, Apr. 12, 2006; 72 FR 13435, Mar. 22, 2007; 72 FR 72573, Dec. 21, 2007; 73 FR 78155, Dec. 22, 2008; 74 FR 68664, Dec. 29, 2009]

Subpart B—Standards for Assessing Performance

SOURCE: 60 FR 22213, May 4, 1995, unless otherwise noted.

§ 563e.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards*. The OTS assesses the CRA performance of a savings association in an examination as follows:

(1) *Lending, investment, and service tests*. The OTS applies the lending, investment, and service tests, as provided in §§ 563e.22 through 563e.24, in evaluating the performance of a savings association, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose savings associations*. The OTS applies the community development test for a wholesale or limited purpose savings association, as provided in § 563e.25, except as provided in paragraph (a)(4) of this section.

(3) *Small savings association performance standards*. The OTS applies the small savings association performance standards as provided in § 563e.26 in evaluating the performance of a small savings association or a savings association during the prior calendar year, unless the savings association elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The savings association 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 savings associations under § 563e.42.

(4) *Strategic plan.* The OTS evaluates the performance of a savings association under a strategic plan if the savings association submits, and the OTS approves, a strategic plan as provided in § 563e.27.

(b) *Performance context.* The OTS 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 savings association's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the savings association's assessment area(s) maintained by the savings association or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The savings association's product offerings and business strategy as determined from data provided by the savings association;

(4) Institutional capacity and constraints, including the size and financial condition of the savings association, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the savings association's ability to provide lending, investments, or services in its assessment area(s);

(5) The savings association's past performance and the performance of similarly situated lenders;

(6) The savings association's public file, as described in § 563e.43, and any written comments about the savings association's CRA performance submitted to the savings association or the OTS; and

(7) Any other information deemed relevant by the OTS.

(c) *Assigned ratings.* The OTS assigns to a savings association one of the following four ratings pursuant to § 563e.28 and Appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance," as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the OTS reflects the savings association'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 savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a savings association to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the OTS anticipates savings associations can meet the standards of this part with safe and sound loans, investments, and services on which the savings associations expect to make a profit. Savings associations 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.

[60 FR 22213, May 4, 1995, as amended at 70 FR 10030, Mar. 2, 2005; 72 FR 13435, Mar. 22, 2007]

§ 563e.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a savings association's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a savings association's business, the OTS will evaluate the savings association's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a savings association's option, the OTS will evaluate one or more categories of consumer lending, if the savings association has collected and maintained, as required in § 563e.42(c)(1), the data for each category that the savings association elects to have the OTS evaluate.

(2) The OTS considers originations and purchases of loans. The OTS will also consider any other loan data the savings association may choose to provide, including data on loans outstanding, commitments and letters of credit.