

(iii) The availability and effectiveness of the savings association's systems for delivering retail banking services and the extent and innovativeness of the savings association's community development services.

(h) *Plan amendment.* During the term of a plan, a savings association may request the OTS to approve an amendment to the plan on grounds that there has been a material change in circumstances. The savings association 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 OTS approves the goals and assesses performance under a plan as provided for in Appendix A of this part.

[60 FR 22216, May 4, 1995, as amended at 60 FR 66050, Dec. 20, 1995; 69 FR 41188, July 8, 2004]

§ 563e.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the OTS assigns to a savings association a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the savings association's performance under the lending, investment and service tests, the community development test, the small savings association performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The OTS assigns a rating for a savings association assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A savings association that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A savings association 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 savings association 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 OTS's evaluation of a savings association's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the savings association or in any assessment area by any affiliate whose loans have been considered as part of the savings association's lending performance. In connection with any type of lending activity described in § 563e.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Owner-ship and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act; and

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission.

(2) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the savings association's assigned rating, the OTS considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the savings association (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the savings association (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

[60 FR 22213, May 4, 1995, as amended at 70 FR 10030, Mar. 2, 2005; 72 FR 13435, Mar. 22, 2007; 72 FR 19110, Apr. 17, 2007]

§ 563e.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the OTS takes into account the record of performance under the CRA of each applicant savings association, and for applications under section 10(e) of the Home Owners' Loan Act (12