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in §345.22(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 Ownership 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 bank's assigned rating, the FDIC 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.

[60 FR 22201, May 4, 1995, as amended at 70 FR 44269, Aug. 2, 2005]

§ 345.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the FDIC takes into account the record of performance under the CRA of each applicant bank in considering an application for approval of:

(1) The establishment of a domestic branch or other facility with the ability to accept deposits;

(2) The relocation of the bank's main office or a branch;

(3) The merger, consolidation, acquisition of assets, or assumption of liabilities; and

(4) Deposit insurance for a newly chartered financial institution.

(b) *New financial institutions.* A newly chartered financial institution shall submit with its application for deposit insurance a description of how it will meet its CRA objectives. The FDIC takes the description into account in considering the application and may

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deny or condition approval on that basis.

(c) *Interested parties.* The FDIC takes into account any views expressed by interested parties that are submitted in accordance with the FDIC's procedures set forth in part 303 of this chapter in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(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

SOURCE: 60 FR 22201, May 4, 1995, unless otherwise noted.

§ 345.41 Assessment area delineation.

(a) *In general.* A bank shall delineate one or more assessment areas within which the FDIC evaluates the bank's record of helping to meet the credit needs of its community. The FDIC does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the FDIC 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 ATMs.

(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

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or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking RSFs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic 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 FDIC uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the FDIC determines that the assessment area(s) do not comply with the requirements of this section.

[60 FR 22201, May 4, 1995, as amended at 69 FR 41188, July 8, 2004]

§ 345.42 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 FDIC) until the completion of its next CRA 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 FDIC in machine readable form (as prescribed by the FDIC) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of \$100,000 or less;

(ii) With an amount at origination of more than \$100,000 but less than or equal to \$250,000;

(iii) With an amount at origination of more than \$250,000; and

(iv) 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.* The aggregate number and aggregate