**Section 185.210 Performance Tests, Standards, and Ratings, In General**

a) Performance tests and standards. The Secretary assesses the ILCRA performance of a credit union in an examination as follows:

1) The Secretary shall apply the assessment factors, as provided in Section 185.200, and the lending and service tests, as provided in Section 185.220 and Section 185.240 in evaluating the performance of a credit union, except as provided in Section 185.210(a)(2), (a)(3) and (a)(4). The investment test, as provided in Section 185.230, does not apply to credit unions unless the credit union elects to be evaluated pursuant to the investment test at the start of an examination.

2) Community development test for wholesale or limited purpose credit unions. The Secretary applies the community development test for a wholesale or limited purpose credit union, as provided in Section 185.250, except as provided in Section 185.210(a)(4).

3) Small credit union and intermediate small credit union performance standards. The Secretary applies the small credit union and intermediate small credit union performance standards as provided in Section 185.260 in evaluating the performance of a small credit union or intermediate small credit union or a credit union that was a small credit union during the prior calendar year, unless the credit union elects to be assessed as provided in subsections (a)(1), (a)(2), or (a)(4) of this Section. A small credit union or intermediate small credit union may elect to be assessed as provided in subsection (a)(1) of this Section only if it collects and reports the data required for other credit unions under Section 185.410.

4) Strategic plan. The Secretary evaluates the performance of a credit union under a strategic plan if the credit union submits, and the Secretary approves, a strategic plan as provided in Section 185.270.

b) Performance context. The Secretary applies the tests and standards in subsection (a) and also considers whether to approve a proposed strategic plan in the context of:

1) demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a credit union's assessment field;

2) any information about lending, investment, and service opportunities in the credit union's assessment field maintained by the credit union or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

3) the credit union's product offerings and business strategy as determined from data provided by the credit union;

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

5) the credit union's past performance and the performance of similarly situated credit unions;

6) the credit union's ILCRA file, as described in Section 185.420, and any written comments about the credit union's ILCRA performance submitted to the credit union or the Secretary;

7) the credit union's field of membership and any lending, investment, and other limitation or prohibition applicable to the credit union pursuant to law; and

8) any other information deemed relevant by the Secretary.

c) Assigned ratings. The Secretary assigns to a credit union one of the following four ratings pursuant to Section 185.280 and 185.APPENDIX A (Ratings): "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 205 ILCS 735/35-15(c). The rating assigned by the Secretary reflects the credit union'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 credit union, and consistent with its common bond. A credit union will be evaluated by how it serves its assessment field. A credit union's rating will not be negatively impacted by the composition of its assessment field, including without limitation the income and geographic demographic data of borrowers in the assessment field, so long as the assessment field is delineated in accordance with Section 185.400.

d) Safe and sound operations. This Part and the ILCRA does not require a credit union to make loans or investments or to provide services that are inconsistent with safe and sound operations, its size and financial condition, or inconsistent with its common bond. Credit unions are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- and moderate-income geographies or individuals and work with delinquent customers to facilitate a resolution of the delinquency, only if consistent with safe and sound operations and consistent with its common bond.

e) Low-cost education loans provided to low-income borrowers. In assessing and taking into account the record of a credit union under this Part, the Secretary shall consider, when applicable, low-cost education loans originated by the credit union to borrowers, particularly in its assessment field, 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 credit union 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). This subsection only applies to credit unions that offer education loans.

f) Activities in cooperation with Community Development Financial Institutions, Minority- or Women-Owned Financial Institutions and Low-Income Credit Unions. In assessing performance to this Part, the Secretary shall consider: capital investment, loan participation, and other ventures undertaken by the credit union in cooperation with Community Development Financial Institutions as defined in regulations issued by the U.S. Department of the Treasury, with minority- and women-owned financial institutions as defined in 12 U.S.C. 2907(b) and credit unions designated as low-income or minority depository institutions by the National Credit Union Administration. Activities must help meet the credit needs of local communities in which Community Development Financial Institution, the minority- and women-owned financial institutions or low income or minority credit unions are chartered. To be considered, activities need not also benefit the credit union's assessment field. This subsection does not apply to credit unions designated as low-income or minority credit unions.

g) Community Development Financial Institutions, Minority Depository Institutions and Low-Income Designated Credit Unions. In assessing performance pursuant to this Part, the Secretary shall consider whether a credit union is certified or designated as a Community Development Financial Institution, Minority Depository Institution and/or Low-Income Designated Credit Union. The Department may require documentation to confirm the credit union still meets the criteria for the certification or designation.