**Section 185.220 Lending Test**

a) Scope of test.

1) The lending test evaluates a credit union's record of helping to meet the credit needs of its assessment field through its lending activities by considering a credit union's home mortgage, small business and community development lending as applicable. If consumer lending constitutes a substantial majority of a credit union's business, the Secretary will evaluate the credit union's consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans in addition to home mortgage, small business and community development lending as applicable. At a credit union's option, the Secretary will also evaluate one or more categories of consumer lending, if the credit union has collected and maintained the data for each category that the credit union elects to have the Secretary evaluate as required in Section 185.410(c)(1) in addition to home mortgage, small business and community development lending as applicable.

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

3) A credit union may ask the Secretary to consider loans originated or purchased by consortia in which the credit union participates or by third parties in which the credit union has invested only if the loans meet the definition of community development loans and only in accordance with subsection (d). 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 credit union's lending performance considering all of the applicable assessment factors in Section 185.200 and pursuant to the following criteria:

1) Geographic distribution. The geographic distribution of the credit union's home mortgage small business, and consumer loans, if applicable, based on the loan location, including:

A) the dispersion of lending in the credit union's assessment field; and

B) the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the credit union's assessment fields.

2) Borrower characteristics. The distribution of the credit union's home mortgage, small business loans, if applicable, 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, including loans to assist existing low- and moderate-income residents to be able to remain in affordable housing in their neighborhoods;

B) small business loans to businesses with gross annual revenues of $1 million or less;

C) small business loans by loan amount at origination; and

D) consumer loans, to low-, moderate-, middle-, and upper- income individuals.

3) Community development lending. The credit union's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

4) Innovative or flexible lending practices. The credit union's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income individuals or geographies. In assessing performance pursuant to this Part, the Secretary shall consider whether a credit union offers Special Credit Programs that are in conformity with and explicitly authorized by the Equal Credit Opportunity Act (15 U.S.C. 1691(c)), Regulation B of 12 CFR 1002.8, and the Illinois Human Rights Act [775 ILCS 5/4-104(C)]. The credit union must be able show that the program will fall under any of the following:

A) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons;

B) any credit assistance program offered by credit union for the benefit of its members or an economically disadvantaged class of persons; or

C) any special credit program offered by a credit union, or in which such an organization participates to meet special social needs, if it meets certain standards prescribed in 12 CFR 1002.8 (a)(3)(i).

c) Affiliate lending.

1) At a credit union's option, the Secretary will consider loans by an affiliate of the credit union, if the credit union provides data on the affiliate's loans pursuant to Section 185.410.

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 credit union shall monitor and keep records of whether such claims exist; and

B) if a credit union elects to have the Secretary consider loans within a particular lending category made by one or more of the credit union's affiliates in a particular assessment field, the credit union shall elect to have the Secretary consider, in accordance with subsection (c)(1), all the loans within that lending category in that particular assessment field made by all of the credit union's affiliates.

3) The Secretary does not consider affiliate lending in assessing a credit union's performance under subsection (b)(2)(A).

d) Lending by a consortium or a third party. Community development loans originated or purchased by a consortium in which the credit union participates or by a third party in which the credit union has invested:

1) will be considered, at the credit union's option, if the credit union reports the data pertaining to these loans under Section 185.410; 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 credit union shall monitor and keep records of whether 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 credit union's lending performance as provided in 185.APPENDIX A (Ratings).