

§ 228.12

12 CFR Ch. II (1–1–03 Edition)

by the Federal Deposit Insurance Corporation; the term “limited branch” means a State branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker’s banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§ 228.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term “control” has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 228.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(d)(2)), except as provided in § 228.11(c)(3), and includes an uninsured State branch (other than a

limited branch) of a foreign bank described in § 228.11(c)(2).

(f) *Branch* means a staffed banking facility approved as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or non-profit organization.

(g) *CMSA* means a consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(h) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or

(4) Activities that revitalize or stabilize low- or moderate-income geographies.

(i) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank’s assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to Part 203 of this chapter); and

(ii) Benefits the bank’s assessment area(s) or a broader statewide or regional area that includes the bank’s assessment area(s).

(j) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank’s retail banking services under § 228.24(d).

Federal Reserve System

§ 228.12

(k) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan*, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan*, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this chapter;

(3) *Home equity loan*, which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan*, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan*, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(l) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(m) *Home mortgage loan* means a "home improvement loan" or a "home purchase loan" as defined in § 203.2 of this chapter.

(n) *Income level* includes:

(1) *Low-income*, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income*, which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 per-

cent or more, in the case of a geography.

(o) *Limited purpose bank* means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with § 228.25(b).

(p) *Loan location*. A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(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.

(q) *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.

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

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

(t) *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than \$250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than \$1 billion.

(u) *Small business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(v) *Small farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Wholesale bank* means a bank that is not 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 bank is in effect, in accordance with § 228.25(b).

[Reg. BB, 60 FR 22190, May 4, 1995, as amended at 60 FR 66050, Dec. 20, 1995; 61 FR 21363, May 10, 1996]

Subpart B—Standards for Assessing Performance

SOURCE: Reg. BB, 60 FR 22191, May 4, 1995, unless otherwise noted.

§ 228.21 Performance tests, standards, and ratings, in general.

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

(1) *Lending, investment, and service tests.* The Board applies the lending, investment, and service tests, as provided in §§ 228.22 through 228.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose banks.* The Board applies the community development test for a wholesale or limited purpose bank, as provided in § 228.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank performance standards.* The Board applies the small bank performance standards as provided in § 228.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank 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 banks under § 228.42.

(4) *Strategic plan.* The Board evaluates the performance of a bank under a strategic plan if the bank submits, and the Board approves, a strategic plan as provided in § 228.27.

(b) *Performance context.* The Board 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 bank's assessment area(s);

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

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

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

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

(6) The bank's public file, as described in § 228.43, and any written comments about the bank's CRA performance submitted to the bank or the Board; and

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

(c) *Assigned ratings.* The Board assigns to a bank one of the following four ratings pursuant to § 228.28 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 Board reflects the bank'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 bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Board anticipates banks can meet the standards of this part with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals,