

**§ 228.29**

**12 CFR Ch. II (1-1-03 Edition)**

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 bank 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.* Evidence of discriminatory or other illegal credit practices adversely affects the Board’s evaluation of a bank’s performance. In determining the effect on the bank’s assigned rating, the Board considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

**§ 228.29 Effect of CRA performance on applications.**

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of:

- (1) Each applicant bank for the:
  - (i) Establishment of a domestic branch by a State member bank; and
  - (ii) Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)) if the acquiring, assuming, or resulting bank is to be a State member bank; and
- (2) Each insured depository institution (as defined in 12 U.S.C. 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:
  - (i) To become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);
  - (ii) To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3

of the Bank Holding Company Act (12 U.S.C. 1842); and

(iii) To own, control or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board’s Rules of Procedure set forth in part 262 of this chapter.

(c) *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.

(d) *Definitions.* For purposes of paragraph (a)(2) of this section, “bank,” “bank holding company,” “subsidiary,” and “savings association” have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. 1841).

**Subpart C—Records, Reporting, and Disclosure Requirements**

SOURCE: Reg. BB, 60 FR 22195, May 4, 1995, unless otherwise noted.

**§ 228.41 Assessment area delineation.**

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