

CHAPTER 2655
DEPARTMENT OF COMMERCE
INTERSTATE BANKING

DEVELOPMENTAL LENDING AND
 INVESTMENT PERFORMANCE RATINGS OF
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**DEVELOPMENTAL LENDING AND INVESTMENT PERFORMANCE
 RATINGS OF FINANCIAL INSTITUTIONS OWNED BY INTERSTATE
 HOLDING COMPANIES**

2655.0700 APPLICABILITY AND SCOPE.

Parts 2655.0700 to 2655.1300 govern the data to be reported and the annual rating of interstate financial institutions operating in Minnesota. A financial institution is rated on its lending and investment performance using a five-point scale as prescribed under Minnesota Statutes, section 48.97.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.0800 PURPOSE.

The purpose of the annual rating of financial institution is to set criteria by which an interstate-owned financial institution is evaluated and ranked based on its proven ability to meet the needs of the community where it conducts business in terms of its performance and in reaching its targeted level of developmental loan and investment activity.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.0900 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 2655.0700 to 2655.1300, the following terms have the meanings given them.

Subp. 2. **Agricultural loans.** "Agricultural loans" means loans for agricultural purposes that may be secured by real estate but not for the purpose of acquiring real estate.

Subp. 3. **Alternate energy loans and alternate conservation loans.** "Alternate energy loans" and "alternate conservation loans" means all loans for any purpose under Minnesota Statutes, section 116M.03, subdivision 26.

Subp. 4. **Commercial loans.** "Commercial loans" means loans for commercial purposes that may be secured by real estate but not for the purpose of acquiring real estate.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce.

Subp. 6. **Community.** "Community" means the area the financial institution has designated for purposes of compliance with the Community Reinvestment Act of 1977, United States Code, title 12, sections 2901 to 2905, and Code of Federal Regulations, title 12, (CFR sub. ctr. D, FSLIC, 563E) as being the areas that it serves.

Subp. 7. **Community development corporation.** "Community development corporation" is as defined in Minnesota Statutes, section 116M.04.

Subp. 8. **Developmental loans.** "Developmental loans" include the following categories:

- A. low- and moderate-income housing;
- B. operating loans for family farmers;
- C. loans made in distressed areas;
- D. minority-owned and woman-owned businesses;
- E. alternative energy and energy conservation practices;
- F. community development corporations;
- G. loans made within Indian reservations;
- H. student education loans; and

I. any other specifically defined class of people, businesses, or projects which meet the standards under Minnesota Statutes, section 645.445, subdivision 5, for socially or economically disadvantaged persons, projects, or businesses.

Subp. 9. Developmental investments. "Developmental investments" include investments for the following purposes:

- A. low- and moderate-income housing;
- B. operating loans for family farmers;
- C. loans made in distressed areas;
- D. minority-owned and woman-owned businesses;
- E. alternative energy and energy conservation practices;
- F. community development corporations;
- G. loans made within Indian reservations;
- H. student education loans; and

I. any other specifically defined class of people, businesses, or projects which meet the standards under Minnesota Statutes, section 645.445, subdivisions 5, for socially or economically disadvantaged persons, projects, or businesses.

Subp. 10. Distressed area. "Distressed area" includes an area designated as a distressed area under Code of Federal Regulations, title 24, section 24570.452 (1986), as amended by the United States Department of Housing and Urban Development.

Subp. 11. Family farmers. "Family farmers" means family farms and family farm corporations as defined in Minnesota Statutes, section 500.24.

Subp. 12. Financial institution. "Financial institution" means a bank, savings bank, or savings and loan association doing business at a location in Minnesota that is owned by an interstate bank holding company, savings and loan, or savings and loan holding company in Minnesota under the Reciprocal Interstate Banking Act of 1986, including Minnesota Statutes, section 51A.58.

Subp. 13. Investments. "Investments" means funds or capital extended, contributed, or otherwise invested, but not loaned.

Subp. 14. Low- and moderate-income housing. "Low- and moderate-income housing" means housing defined as such by any of the following:

- A. regulations adopted by the Farmers Home Administration; or
- B. section 8 of the United States Housing Act of 1937, and the regulation adopted under the act.

Subp. 15. Minnesota loan. "Minnesota loan" means loans made to Minnesota residents to be used in Minnesota or loans where the financial institution has been advised by the borrower that the loan proceeds will be used in Minnesota.

Subp. 16. Minnesota residents. "Minnesota residents" are:

- A. individuals located within a Minnesota zip code;
- B. private profit or nonprofit corporations or subsidiaries, or divisions of these corporations, located and doing business within Minnesota;

C. profit or nonprofit partnerships, trusts, or any form of other business enterprise located and doing business within Minnesota; or

D. any municipality, agency, or other public authority established and operating under the laws of Minnesota.

Subp. 17. **Minority-owned business and woman-owned business.** "Minority-owned business" and "woman-owned business" means a socially or economically disadvantaged person under Minnesota Statutes, section 645.445, subdivision 5. A minority-owned business or woman-owned business must have at least 50 percent of the ownership interest controlled by such disadvantaged class of person.

Subp. 18. **New net funds.** "New net funds" has the meaning given the term in part 2655.0200, subpart 20.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.1000 FILING REQUIREMENTS.

A financial institution on or before March 31 each year shall file with the commissioner: (1) a copy of each report and document which it is required to prepare and/or file with one or more federal agencies by the Community Reinvestment Act of 1977, United States Code, title 12, as amended, and the rules and regulations under that act; (2) a copy of the most recent, complete, disclosure statement prepared under the reporting requirements and the rules and regulations of the Federal Home Mortgage Disclosure Act of 1975, United States Code, title 12, as amended; and (3) a report, in a form to be prescribed by the commissioner, which shall be the basis for, along with other information regarding the financial institution obtained by the commissioner, the annual community reinvestment rating assigned to the financial institution by the commissioner. The report must:

A. List the volume of developmental loans in the community, outside of the community, in the state, in terms of number and amount originated by the financial institution in the preceding calendar year and those outstanding at the end of the preceding calendar year.

B. Project the volume of developmental loans in the community, outside of the community, in the state, in terms of number and amount, to be originated during the current calendar year and those to be outstanding at the end of the current calendar year.

C. List by zip code or census tract the number and volume of agricultural loans by the following categories for the preceding calendar year:

(1) by purpose of loan for:

(a) machinery and equipment;

(b) crop inputs and harvest;

(c) livestock purchase and feed;

(d) where a combination of the above purposes list by purpose to which a majority of proceeds were devoted; and

(e) restructuring existing agricultural loans originally made for the above purposes; and

(2) by the repayment terms of:

(a) demand;

(b) amortizing-installments;

(c) single payment; or

(d) revolving credit agreement.

For the purposes of the report submitted in 1989 only, this data must be reported for both calendar years 1987 and 1988.

D. List by zip code or census tract the number and volume of commercial loans by the following categories for the preceding calendar year:

- (1) by purpose of loan for:
 - (a) purchase or maintenance of machinery, equipment, furniture, and fixtures;
 - (b) financing inventory;
 - (c) cash flow, including accounts receivable;
 - (d) improvements to commercial real estate; or
 - (e) capitol or equity formation loans; and
- (2) by the repayment terms of:
 - (a) demand;
 - (b) amortizing-installments;
 - (c) single payment; or
 - (d) revolving credit agreement.

For the purposes of the report submitted in 1989 only, this data must be reported for both calendar years 1987 and 1988.

E. List any developmental investments for the classifications and time periods described in items A and B.

F. List any developmental loans or developmental investments originated by the financial institution which has or will be participated in or sold to other institutions during the time periods described in items A and B.

G. List by zip code or census tract the dollar value and volume of deposits received during the preceding calendar year.

H. Describe the economic condition of the community during the time periods described in items A and B, using among other criteria, those listed in part 2655.1100, which relate to economic and social conditions in the community and establish the basis for the financial institution's obligation to place developmental loans to residents within the community or outside of the community or in distressed areas in the state of Minnesota.

I. Include a copy of the financial institution's Federal Financial Institution Examination Council Call Report or similar report required by the Federal Home Loan Bank Board that had been filed for the preceding December 31.

J. Determine the extent of nondevelopmental loans and investments made by the financial institution in Minnesota and outside of Minnesota during the time period described in items A and B.

K. Describe in detail the methods used by the financial institution in determining the credit needs of its local community.

L. Describe in detail the methods used and the media employed to make the members of the organization's community aware of the credit services it offers.

M. Describe the extent of participation by the organization's board of directors or trustees in formulating the financial institution's policies and reviewing its performance with respect to the purpose of the Community Reinvestment Act and Minnesota Statutes, section 48.97.

N. Describe the financial institution's participation, leadership, and creativeness in:

- (1) local development, redevelopment, and rehabilitation projects or programs;
- (2) programs or organizations which promote and assist in the development and growth of small business in Minnesota; and
- (3) programs or organizations that address the financial needs of minorities.

O. Explain how and to what extent the financial institution has brought into Minnesota the net new funds described in the acquisition application.

P. Describe any other community activities that bear upon the extent to which the financial institution is helping to meet local credit needs. Information and data required under subparts A to M may be incorporated by reference if the information and data are already included in the report and document filed in connection with the Community Reinvestment Act as required by this part.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.1100 RATING CRITERIA.

On the basis of the reports required under part 2655.1000, the commissioner shall classify each financial institution in relation to the estimated need for developmental loans and rate each financial institution using the following criteria:

A. the economic condition of the community or communities to be served including, but not limited to, population trends and area use for residential, commercial, industrial, and agricultural purposes;

B. the social composition of the community or communities to be served including the level of socially and economically disadvantaged persons, families of low and moderate income and low- and moderate-income housing, the number of women 18 to 60 years of age, and location of distressed areas;

C. the actual fiscal capacity of the financial institution to provide loans and credit;

D. the amount of developmental loan and developmental investment transactions and programs in relation to the actual local demand for credit and loans without economic reinvestment leadership intervention, including the number of loans and amount of investments that are not classified as developmental and are out of the financial institution's service area in relation to the measured activity of developmental loans and developmental investments within the financial institution's service area; and

E. the financial institution's plan and demonstrated experience in assisting in:

(1) the development of economically disadvantaged and underserved neighborhoods, including Indian reservations;

(2) meeting the credit and deposit service needs of low-income, moderate-income, and minority residents; and

(3) helping small, minority-owned and women-owned businesses.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.1200 REVIEW REPORTS.

When rating a financial institution, the commissioner will review all reports and documents filed with the department under part 2655.1000 and any signed, written comments received by the commissioner which specifically relate to the financial institution's performance in helping to meet the credit needs of its community. In addition, the commissioner will consider the following factors in assessing a financial institution's record of performance:

A. activities conducted by the financial institution to ascertain credit needs of its community, including the extent of the financial institution's efforts to communicate with members of its community regarding the credit services being provided the financial institution;

B. the extent of the financial institution's marketing and special credit-related programs that make members of the community, including members of targeted groups and populations, aware of the credit services provided;

C. the extent of participation of the financial institution's board of directors or board of trustees in formulating the financial institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

D. the geographic distribution of the financial institution's credit extensions, credit applications, and credit denials;

E. any practices intended to discourage applications for types of credit in the financial institution's annual community reinvestment plan;

F. evidence of prohibited discriminatory or other illegal credit practices;

G. the total dollar volume and number of loans and investments made by the financial institution in its community and outside of its community, in the state of Minnesota during the time periods described in part 2655.1000, items A and B;

H. the financial institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic conditions, and other factors; and

I. other factors that, in the judgment of the commissioner reasonably bear upon the extent to which a financial institution is helping to meet the credit needs of its entire community.

Assessment of a financial institution's record of performance, under this part, will be the basis for the financial institution's rating under Minnesota Statutes, section 48.97, subdivision 3.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*

2655.1300 ANNUAL RATING.

Subpart 1. **Community reinvestment assessment.** Annually on or before June 30, the department shall make a community reinvestment assessment of each financial institution. The assessment will be based upon information compiled under parts 2655.0700 to 2655.1300 or obtained from other sources, including information obtained from state or federal banking regulators. The commissioner shall prepare a written report summarizing the results of the assessment and assign to each financial institution a numerical rating based on a one to five scoring system. Specifically, the numerical scores shall represent performance assessments as follows:

A. excellent performance;

B. good performance;

C. satisfactory performance;

D. less than satisfactory performance; and

E. unsatisfactory performance.

Subp. 2. **Rating scale.** Rating shall be based on a five-point scale. An annual rating of excellent to poor shall then be given based on the percentile and of the total score of the financial institution in question, unless the distribution is unusually skewed, then the commissioner shall adopt an appropriate measure of the distribution. In assigning the rating, the five performance categories will be weighed and evaluated according to how well the financial institution meets the descriptive characteristics listed below:

A. "Excellent" means the financial institution has a strong record of meeting community credit needs and performance in reaching the target level of developmental loans and developmental investments. Both the board of directors and management take an active part in the process and demonstrate an affirmative commitment to the community. Financial institutions receiving this rating rank high in all performance categories.

B. "Good" means a financial institution has a very acceptable record of

helping to meet community credit needs and performance in reaching the target level of developmental loans and developmental investments. A financial institution receiving this rating is ranked in the good levels of the performance categories.

C. "Satisfactory" means a financial institution has an acceptable record of helping to meet community credit needs and in meeting the target level of developmental loans and investments. The board of directors and management have not placed strong emphasis on the credit needs of the community. An institution receiving this rating has rankings surrounding the midrange levels of performance categories.

D. "Less than satisfactory" means a financial institution has an inadequate record of helping to meet the community credit needs and reaching the target level of developmental loans and developmental investments. The board of directors and management give inadequate consideration to the credit needs of the institution's community. An institution receiving the rating generally ranks below satisfactory in the majority of performance categories.

E. "Unsatisfactory" means a financial institution has a very poor record of helping to meet the community credit needs and in reaching the target level of developmental loans and developmental investments. The board of directors and management appear to give little consideration to the credit needs of the institution's community. An institution receiving this rating ranks in the lowest levels of the performance categories.

Statutory Authority: *MS s 45.023; 48.97; 48.991*

History: *13 SR 2824*