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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 1055

MORTGAGE COMMUNITY REINVESTMENT

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AUTHORITY: Implementing and authorized by the Illinois Community Reinvestment Act [205 ILCS 735].

SOURCE: Adopted at 47 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART A: GENERAL

**Section 1055.10 Authority, Purposes and Scope**

- a) The Illinois Community Reinvestment Act (ILCRA) [205 ILCS 735/35-1 et seq.] authorizes this Part.
- b) *Purposes.* This Part is intended to carry out the mortgage lender community investment purposes of 205 ILCS 735 by establishing the framework and criteria by which the Secretary assesses a mortgage lender covered mortgage licensee's record of helping to meet the mortgage credit needs of the State, including low- and moderate-income neighborhoods and individuals, consistent with the safe and sound operation of the mortgage lender covered mortgage licensee, and by providing that the Secretary takes that record into account in considering certain applications pursuant to Section 1055.250.
- c) *Scope.* This Part applies to all mortgage lender covered mortgage licensees as defined in Section 1055.20.

**Section 1055.20 Definitions**

For purposes of this Part, the following definitions apply:

*Area median income* means:

the median family income for the Metropolitan Statistical Area (MSA) (as defined in (n) of this section), if a person or geography is located in an MSA; or

the statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

*Additional Full-Service Office* means any Illinois Residential Mortgage Licensee maintaining or establishing an additional full-service office that conducts residential mortgage licensable activities in the State of Illinois staffed facility licensed as an additional full-service office under 205 ILCS 635/1-3(f) & 2-8.

*Community Development* means:

Mortgage products and other efforts to assist low- and moderate-income individuals to acquire or remain in affordable housing;

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Community services targeted to low- and moderate-income individuals;

Activities that revitalize or stabilize:

Low- or moderate-income geographies;

Designated disaster areas; or

Distressed or underserved nonmetropolitan middle-income geographies designated by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency; or

Any other such area as determined by the Secretary based on:

Rates of poverty, unemployment, and population loss; or

Population Size, Density, and Dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community and economic development needs, including needs of low- and moderate-income individuals.

*Community Development Loan* means a loan that:

Has as its primary purpose community development; and

Has not been reported or collected by the ~~mortgage lender~~covered mortgage licensee for consideration in the ~~mortgage lender~~covered mortgage licensee's assessment as a home mortgage loan, unless it is a multifamily dwelling loan (as described in Appendix A to 12 CFR 203, the Consumer Financial Protection Bureau's implementing regulations for the Home Mortgage Disclosure Act); and

Benefits the State or a broader regional area that includes the State.

*Community Development Service* means a service that:

Has as its primary purpose community development; and

Is related to the provision of financial services, including technical services.

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*Department* means the Illinois Department of Financial and Professional Regulation.

*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.

*Home Mortgage Disclosure Act, or HMDA* means the Consumer Financial Protection Bureau's implementing regulations found at 12 CFR 1003.

*Home Mortgage Loan* means a *Home Improvement Loan*, or a *Home Purchase Loan* as defined in 12 CFR 1003.2 of HMDA or a home equity loan or any other extension of credit, including but not limited to a refinance, secured by a residence of the borrower for personal, family, or household purposes.

*Highly Economically Disadvantaged Areas* means economically distressed areas designated pursuant to 26 U.S.C. 1391.

*Income Level* means:

Low-income, an individual income that is less than 50% of the area median income, or a median family income that is less than 50%, in the case of a geography.

Moderate-income, an individual income that is at least 50% and less than 80% of the area median income, or a median family income that is at least 50% and less than 80%, in the case of a geography.

Middle-income, an individual income that is at least 80% and less than 120% of the area median income, or a median family income that is at least 80% and less than 120%, in the case of a geography.

Upper-income, an individual income that is 120% or more of the area median income, or a median family income that is 120% or more, in the case of a geography.

*Loan Location* means a home mortgage loan is located in the geography where the property to which the loan relates is situated.

~~*Mortgage Lender*~~ *Covered Mortgage Licensee* means a mortgage lender, licensed under 205 ILCS 635, that has ~~made-lent or originated~~ 50 or more mortgage loans in the State in the last calendar year reportable under the Home Mortgage Disclosure Act and

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also is responsible for underwriting, making credit decisions for, issuing of commitments, or funding the home mortgage loans.

*MSA* means a metropolitan statistical area as defined by the United States Director of the Office of Management and Budget.

*Protected Characteristic* means any basis for which discrimination is prohibited by a law for which a covered mortgage licensee is examined for compliance under this Part, including but not limited to, under the Illinois Human Rights Act for example, race, color, religion, national origin, ancestry, age, sex, marital status, order of protection status, disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service.

*Qualified Investment* means a lawful investment, deposit, donation, membership share, or grant that has as its primary purpose community development, and lawful investments in the following:

corporations for the purpose of providing technical assistance to nonprofit housing corporations for the purpose of establishing creditworthiness;

contributions to any private nonprofit organization organized for improving the social and economic conditions, such as community development programs, foreclosure prevention initiatives, and educational institutions focusing on financial literacy initiatives, in communities in the State;

contributions for the purpose of relieving suffering or distress resulting from disaster or other calamity, such as hurricane or flood, occurring in any part of the State; and

contributions to any private nonprofit organization organized for fair housing and fair lending education and training.

*Special Credit Program* means any credit program offered by a covered mortgage licensee to meet special social needs which is in conformity with and explicitly authorized by the Equal Credit Opportunity Act, 15 U.S.C. § 1691(c) and Regulation B, 12 C.F.R. § 1002.8.

*Unbanked person* means an individual that does not have a checking or savings account with an insured depository institution.

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*Underbanked person means an individual that has a checking or saving account with an insured depository institution but that used financial products or services from a person other than an insured depository institution in the past 12 months.*

SUBPART B: STANDARDS OF ASSESSING PERFORMANCE

**Section 1055.200 Assessment Factors**

As used in this Part, “assessment factors” means the assessment of the following factors to determine whether a ~~mortgage lender~~ covered mortgage licensee is meeting the financial services needs of local communities:

- a) activities to ascertain the financial services needs of the community, including communication with community members regarding the financial services provided;
- b) extent of marketing to make members of the community aware of the financial services offered;
- c) origination of mortgage loans including, but not limited to, home improvement and rehabilitation loans, and other efforts to assist existing low-income and moderate-income residents to be able to remain in affordable housing in their neighborhoods;
- d) for small business lenders, the origination of loans to businesses with gross annual revenues of \$1,000,000.00 or less, particularly those in low-income and moderate-income neighborhoods;
- e) participation, including investments, in community development and redevelopment programs, small business technical assistance programs, minority-owned depository institutions, community development financial institutions, and mutually-owned financial institutions;
- f) efforts working with delinquent customers to facilitate a resolution of the delinquency;
- g) origination of loans that show an under concentration and a systemic pattern of lending resulting in the loss of affordable housing units;
- h) evidence of discriminatory and prohibited practices; and

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- i) offering mortgage lending to unbanked and underbanked persons.

**Section 1055.210 Performance Tests, Standards, and Ratings, in General**

- a) *Performance tests and standards.* The Secretary assesses the performance of a ~~mortgage lender~~covered mortgage licensee in an examination as follows: ~~Mortgage Lender~~Covered Mortgage Licensee Performance Standards. The Secretary applies the assessment factors, as provided in Section 1055.200 of this subpart, and lending and service tests, as provided in Sections 1055.220 and 1055.230 in evaluating the performance of a ~~mortgage lender~~covered mortgage licensee. However, a ~~mortgage lender~~covered mortgage licensee that achieves at least a “satisfactory” rating under both the lending and service tests may warrant consideration for an overall rating of “outstanding” depending on the ~~mortgage lender~~covered mortgage licensee’s performance in making qualified investments and community development loans to the extent authorized under law, in accordance with 1055.APPENDIX A, section (b)(3).
- b) *Performance context.* The Secretary applies the tests and standards in Section 1055.210(~~a~~) 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 the State;
  - 2) any information about lending and service opportunities in the State maintained by the ~~mortgage lender~~covered mortgage licensee or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;
  - 3) the ~~mortgage lender~~covered mortgage licensee’s product offerings and business strategy as determined from data provided by the ~~mortgage lender~~covered mortgage licensee in the State;
  - 4) the ~~mortgage lender~~covered mortgage licensee’s capacity and constraints, including the size and financial condition of the ~~mortgage lender~~covered mortgage licensee, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the ~~mortgage lender~~covered mortgage licensee’s ability to provide lending or services in the State;

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- 5) the ~~mortgage lender covered mortgage licensee~~'s past performance and the performance of similarly situated lenders in the State; and
  - 6) any other information deemed relevant by the Secretary.
- c) *Assigned ratings.* The Secretary assigns to a ~~mortgage lender covered mortgage licensee~~ one of the following five ratings pursuant to Sections 1055.240 and 1055.APPENDIX A: "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 ~~mortgage lender covered mortgage licensee~~'s record of helping to meet the mortgage credit needs of the State, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the ~~mortgage lender covered mortgage licensee~~.
- d) *Safe and sound operations.* This Part does not require a ~~mortgage lender covered mortgage licensee~~ to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Secretary anticipates ~~mortgage lender covered mortgage licensees~~ can meet the standards of this Part with safe and sound loans, investments, and services on which the ~~mortgage lender covered mortgage licensee~~ can expect to make a profit. ~~Mortgage lender Covered mortgage licensees~~ are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit and are suitable for low- and moderate-income geographies or individuals, only if consistent with safe and sound operations.
- e) *Disparity Study.* The Secretary may retain qualified persons to design and conduct a study, and prepare and report findings and conclusions to the Secretary (1) to identify and describe geographies in Illinois exhibiting significant disparities by race or other protected characteristics in access to relevant financial products or services, and (2) to develop methods and procedures to identify policies, procedures, patterns, or practices that have disparate impact or discriminatory effects. Following the publication of this study, the Secretary may incorporate the findings, conclusions and other results from the study into the examination process.

**Section 1055.220 Lending Test**

- a) *Scope of test.*
  - 1) The lending test evaluates a ~~mortgage lender covered mortgage licensee~~'s record of helping to meet the mortgage credit needs of the State through



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its lending activities by considering a ~~mortgage lendercovered mortgage licensee~~'s home mortgage and community development lending.

- 2) The Secretary considers originations and initial purchases of loans as reported by the ~~mortgage lendercovered mortgage licensee~~ under HMDA. The Secretary will also consider any other loan data the ~~mortgage lendercovered mortgage licensee~~ may choose to provide.

- b) *Performance criteria.* The Secretary evaluates a ~~mortgage lendercovered mortgage licensee~~'s performance considering the assessment factors in Section 1055.200 and pursuant to the following criteria:

- 1) *Geographic distribution.* The geographic distribution of the ~~mortgage lendercovered mortgage licensee~~'s home mortgage loans, based on the loan location, including:

- A) the dispersion of lending in the State and whether lending arbitrarily excludes low- and moderate-income geographies; ~~and~~

- B) the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the State; and

- C) The number and amount of loans in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under section 345.210(e).

- 2) *Borrower characteristics.* The distribution of the ~~mortgage lendercovered mortgage licensee~~'s home mortgage loans based on borrower characteristics, including:

- A) -the number and amount of 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 acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the ~~mortgage lendercovered mortgage licensee~~'s history with similarly situated borrowers; and

- B) home mortgage loans to members of identified racial or other groups in areas, if any, identified as exhibiting significant

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[disparities by race or other protected characteristics in access to loans by a Disparity Study incorporated into the examination process under section 345.210\(e\);](#)

- 3) *Innovative or flexible lending practices.* The ~~mortgage lender~~covered mortgage licensee'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, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes. The Secretary shall also consider the availability of mortgage loan products that are suitable for such low- and moderate-income individuals, including loans specifically approved for low- and moderate-income individuals by Federal Housing Administration, Veteran's Administration, federal Rural Housing Service, or a government-sponsored enterprise. In assessing performance pursuant to this Part, the Secretary shall consider whether a covered mortgage licensee offers special credit programs. The covered mortgage licensee must be able show that the program will fall under any of the following: (1) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons; (2) any credit assistance program offered by a not-for-profit organization for the benefit of its members or an economically disadvantaged class of persons; or (3) any special purpose credit program offered by a for-profit organization, or in which such an organization participates to meet special social needs, if it meets certain standards prescribed in 12 C.F.R. § 1002.8(a)(3)(i);
- 4) *Loss mitigation efforts.* The ~~mortgage lender~~covered mortgage licensee's efforts to work with delinquent home mortgage loan borrowers to facilitate a resolution of the delinquency, including the number of loan modifications, the timeliness of such modifications, and the extent to which such modifications are effective in preventing subsequent defaults or foreclosures;
- 5) *Fair lending.* The ~~mortgage lender~~covered mortgage licensee's performance relative to fair lending policies and practices pursuant to written policies and directives issued by the Secretary; and
- 6) *Loss of affordable housing.* The ~~mortgage lender~~covered mortgage licensee's number and amount of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units, including a pattern of early payment defaults.

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- c) *Third-party lending.* No ~~mortgage lender~~covered mortgage licensee may include a loan origination or loan purchase for consideration if another ~~mortgage lender~~covered mortgage licensee or depository institution claims the same loan origination or purchase under this Part or the state or federal Community Reinvestment Act.
- d) *Lending performance rating.* The Secretary rates a ~~mortgage lender~~covered mortgage licensee's performance as provided in 1055.APPENDIX A.

**Section 1055.230 Service Test**

- a) *Scope of test.* The service test evaluates a ~~mortgage lender~~covered mortgage licensee's record of helping to meet the mortgage credit needs in the State by analyzing both the availability and effectiveness of a ~~mortgage lender~~covered mortgage licensee's systems for delivering mortgage loan products and the extent and innovativeness of its community development services. A ~~mortgage lender~~covered mortgage licensee that has made fewer than **2+00** home mortgage loans in the State in the last calendar year shall not be subjected to the service test outlined in Section 1055.230.
- b) *Area(s) benefited.* Community development services must benefit the State or a broader regional area that includes the State.
- c) *Performance criteria - community development services.* The Secretary evaluates community development services pursuant to the following criteria:
  - 1) the extent to which the ~~mortgage lender~~covered mortgage licensee provides community development services; ~~and~~
  - 2) the innovativeness and responsiveness of community development services; ~~and~~
  - 3) the ~~mortgage lender~~covered mortgage licensee's performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to mortgage credit services by a Disparity Study incorporated into the examination process under section 345.210(e).
- d) *Performance criteria - mortgage lending services.* The Secretary evaluates the availability and effectiveness of a ~~mortgage lender~~covered mortgage licensee's

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systems for delivering mortgage lending services considering the assessment factors in Section 1055.200 and, pursuant to the following criteria:

- 1) the availability and effectiveness of systems for delivering mortgage lending services (e.g., Internet, telephone solicitation, direct mail) in low- and moderate-income geographies and to low- and moderate-income individuals, including, to the extent applicable, the current distribution of the ~~mortgage lendercovered mortgage licensee~~'s additional full-service office among low-, moderate-, middle-, and upper-income geographies; ~~and~~
  - 2) the range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies; ~~and~~
  - 3) the ~~mortgage lendercovered mortgage licensee~~'s performance on the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to community development services by a Disparity Study incorporated into the examination process under section 345.210(e).
- e) *Service performance rating.* The Secretary rates a ~~mortgage lendercovered mortgage licensee~~'s service performance as provided in 1055.APPENDIX A.

**Section 1055.240 Assigned Ratings**

- a) *Ratings in general.* Subject to Section 1055.240(2) and (3), the Secretary assigns to a ~~mortgage lendercovered mortgage licensee~~ a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the ~~mortgage lendercovered mortgage licensee~~'s performance under the lending and service tests.
- b) *Lending test.* No ~~mortgage lendercovered mortgage licensee~~ may receive an assigned overall rating of "satisfactory" or higher unless it receives a rating of at least "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 Secretary's evaluation of ~~mortgage lendercovered mortgage licensee~~'s performance. In determining the effect on the ~~mortgage lendercovered mortgage licensee~~'s assigned rating, the Secretary considers the nature and extent of the evidence, the

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policies and procedures that the ~~mortgage lender~~covered mortgage licensee has in place to prevent discriminatory or other illegal credit practices, any corrective action that the ~~mortgage lender~~covered mortgage licensee has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, the ~~mortgage lender~~covered mortgage licensee's compliance with written policies and directives with regard to fair lending, and other relevant information.

In connection with any type of lending activity described in Section 1055.220, evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes but is not limited to:

- 1) Discrimination against applicants on a prohibited basis in violation, for example of the Equal Credit Opportunity Act or Fair Housing Act, [including, for example, relying on or giving force or effect to discriminatory appraisals to deny loan applications where the covered financial institution knew or should have known of the discrimination;](#)
- 2) Violations of § 5 of the Federal Trade Commission Act;
- 3) Violations of § 8 of the Real Estate Settlement Procedures Act;
- 4) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;
- 5) Violations of Residential Real Property Disclosure Act;
- 6) Violations of the Illinois High Risk Home Loan Act (815 ILCS 137);
- 7) Violations of the Illinois Fairness in Lending Act (815 ILCS 120); and
- 8) Violations of Article 4 [Financial Credit] of the Illinois Human Rights Act (775 ILCS 5/Art. 4).

**Section 1055.250 Effect of Record of Performance on Applications**

- a) *Performance.* Among other factors, the Secretary takes into account the record of performance of each ~~mortgage lender~~covered mortgage licensee, under the ~~mortgage lender~~covered mortgage licensee community investment provisions of 205 ILCS 735 when submitting applications for the following:

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- 1) renewal of a license to conduct business in the State by all mortgage lendercovered mortgage licensees;
  - 2) establishment or renewal of any additional full-service office by all mortgage lendercovered mortgage licensees;
  - 3) any merger with or acquisition of a mortgage lendercovered mortgage licensee or mortgage broker by a mortgage lendercovered mortgage licensee or any other proposed change in control of a mortgage lendercovered mortgage licensee; and
  - 4) any other approval of the Secretary, provided that there are no other countervailing financial safety and soundness or other policy considerations.
- b) *Interested parties.* In considering a record of performance in applications described in Section 1055.250(a), the Secretary takes into account any views expressed by interested parties that are submitted.
- c) *Denial, deferral, or conditional approval of application.* A mortgage lendercovered mortgage licensee's record of performance may be the basis for denying, deferring, or conditioning approval of an application listed in Section 1055.250(a).

SUBPART C: RECORDS, REPORTING, AND DISCLOSURE REQUIREMENTS;  
EXAMINATIONS

**Section 1055.400 Data Collection and Reporting**

- a) As part of its examination, the Secretary shall require a mortgage lendercovered mortgage licensee to collect and report for examination purposes ~~additional~~the data fields ~~beyond what is~~required under HMDA. The mortgage lendercovered mortgage licensee shall be expected to test its data collection and reporting, ~~including its HMDA data~~, as part of its routine internal controls to ensure compliance with all data reporting requirements as well as its own policies and procedures.
- b) *Optional data collection and maintenance.* At its option, a mortgage lendercovered mortgage licensee may provide other information concerning its lending performance, including additional loan distribution data.

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**Section 1055.410 Content and Availability of Public Information**

- a) *Information available to the public.* A ~~mortgage lender~~covered mortgage licensee shall maintain the following information to be made available to the public upon request:
- 1) all written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the ~~mortgage lender~~covered mortgage licensee's performance in helping to meet the mortgage credit needs of the State, and any response to the comments by the ~~mortgage lender~~covered mortgage licensee, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the ~~mortgage lender~~covered mortgage licensee or publication of which would violate specific provisions of law;
  - 2) a copy of the public section of the ~~mortgage lender~~covered mortgage licensee's most recent Performance Evaluation prepared by the Secretary; and
  - 3) a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the ~~mortgage lender~~covered mortgage licensee for each of the prior two calendar years.
- b) *Copies.* Upon request, a ~~mortgage lender~~covered mortgage licensee shall provide within five business days of the request, copies, either on paper or in another form acceptable to the person making the request, of the information required under Section 1055.410(1). The ~~mortgage lender~~covered mortgage licensee may charge a reasonable fee not to exceed the cost of copying and mailing, if applicable.

**Section 1055.420 Publication of Planned Examination Schedule**

The Secretary publishes at least thirty days in advance of the beginning of each calendar quarter a list of ~~mortgage lender~~covered mortgage licensees scheduled for ILCRA examinations in that quarter.

**Section 1055.430 Alternative Examination Procedures**

The Secretary may establish alternative examination procedures for institutions which were rated "outstanding" as of their most recent ILCRA compliance examination. The purpose of such

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alternative procedures shall be to reduce the cost to institutions. The alternative procedures shall in no way limit public participation.

**Section 1055.440 Examination Authority and Cooperation**

- a) Pursuant to the Secretary's authority under the ILCRA, including, but not limited to, Sections 35-15 and 35-25 thereof, the Secretary and his or her appointees may examine the entire books, records, documents, and operations of each ~~mortgage lender~~mortgage licensee or its directors, employees, and agents under oath.
- b) A ~~mortgage lender~~mortgage licensee shall be required to fully cooperate in any examination conducted pursuant to this Part. Cooperation includes, but is not limited to:
  - 1) timely and full production of books, records, and documents, in any reasonable format requested by the Department; and
  - 2) ensuring all officers, directors, employees, and agents of the ~~mortgage lender~~mortgage licensee are available for depositions or interviews upon reasonable notice.

**Section 1055.450 Examination Frequency**

- a) Subject to the provisions of this Section, the Secretary may conduct examinations under the ILCRA or this Part in coordination with authorities from other states with the authority to regulate institutions and individuals engaged in the offering and provision of home mortgage loans ("Other State Regulators").
- b) For ~~mortgage lender~~mortgage licensees that made more than 100 home mortgage loans in the State in the last calendar year; the Secretary shall conduct examinations under the ILCRA with the following frequency:
  - 1) For a ~~mortgage lender~~mortgage licensee that is assigned an "outstanding" or "satisfactory" rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 3 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 2) For a ~~mortgage lender~~mortgage licensee that is assigned a "needs to improve" rating in its most recent prior examination under the ILCRA,



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the next examination shall be initiated within 2 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.

- 3) For a ~~mortgage lender~~covered mortgage licensee that is assigned a “substantial noncompliance” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within one year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- c) For ~~mortgage lender~~covered mortgage licensees that made less than 100 home mortgage loans in the State in the last calendar year, the Secretary shall conduct examinations under the ILCRA with the following frequency:
  - 1) For a ~~mortgage lender~~covered mortgage licensee that is assigned an “outstanding” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 5 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 2) For a ~~mortgage lender~~covered mortgage licensee that is assigned a “satisfactory” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 4 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 3) For a ~~mortgage lender~~covered mortgage licensee that is assigned a “needs to improve” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 2 years of the issuance of the report of examination of its most recent prior examination under the ILCRA.
  - 4) For a ~~mortgage lender~~covered mortgage licensee that is assigned “substantial noncompliance” rating in its most recent prior examination under the ILCRA, the next examination shall be initiated within 1 year of the issuance of the report of examination of its most recent prior examination under the ILCRA.
- d) Notwithstanding the provisions of this Section, the Secretary may

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- 1) conduct an examination at any time upon finding (i) an Other State Regulator has rated the mortgage lendercovered mortgage licensee, as of its most recent examination, in “substantial noncompliance” or equivalent rating with that state’s Community Reinvestment Act, (ii) substantial evidence of discriminatory or other illegal credit practices, or (iii) the Secretary otherwise finds sufficient cause; or
  - 2) notwithstanding subsections (b)(1) and (c)(1) of this Section, extend by one year the time between examination of any mortgage lendercovered mortgage licensee or mortgage lendercovered mortgage licensees with an “outstanding” or “satisfactory” rating if the Secretary finds that an extension is necessitated by (i) the need to examine or investigate a mortgage lendercovered mortgage licensee or mortgage lendercovered mortgage licensees with a “needs to improve” or “substantial noncompliance” rating or (ii) the need to examine or investigate a mortgage lendercovered mortgage licensee or mortgage lendercovered mortgage licensees showing substantial evidence of illegal credit practices.
  - 3) examine a mortgage lendercovered mortgage licensee at any time as authorized by the ILCRA.
- e) For purposes of this Section, mortgage lendercovered mortgage licensees will report the number of home loans as reported on the Mortgage Call Report for the last calendar year.

**Section 1055.460 Examination Fees**

- a) Hourly Rate and Out-of-State Travel Expenses
  - 1) Time expended in the conduct of any examination of a mortgage lendercovered mortgage licensee pursuant to Section 35-15 of the ILCRA shall be billed by the Department at a rate of \$2,200 per day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.
  - 2) When out-of-state travel occurs in the conduct of any examination, the mortgage lendercovered mortgage licensee shall make arrangements to reimburse the Department all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published

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by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800).

- b) Assessments. Each mortgage lender covered mortgage licensee shall pay to the Department its pro rata share of the cost for administration of the ILCRA for mortgage lender covered mortgage licensees that exceeds the examination fees paid pursuant to subsection (a) of this Section, as estimated by the Department, for the current year and any deficit actually incurred in the administration of the Act in prior years. The aggregate assessment may not increase by more than 5% annually. In addition to this assessment, mortgage lender covered mortgage licensees with a current rating of "needs to improve" or "substantial noncompliance" may be assessed a surcharge, and in that case, the assessment on other mortgage lender covered mortgage licensees shall be reduced in amount equal to such surcharge. The aggregate surcharge shall not be greater than an amount equal to 20% of the cost for administration of the ILCRA that exceeds the examination fees paid pursuant to subsection (a) of this Section. Each mortgage lender covered mortgage licensee's pro rata share of an assessment shall be the percentage that the total number of loans shown on the mortgage lender covered mortgage licensee's Mortgage Call Report bears to the total number of loans of all mortgage lender covered mortgage licensees covered by the ILCRA. Each mortgage lender covered mortgage licensee's pro rata share of a surcharge shall be the percentage that the number of loans shown on the mortgage lender covered mortgage licensee's Mortgage Call Report bears to the total number of loans of all mortgage lender covered mortgage licensees subject to a surcharge and covered by the ILCRA.
- c) All fees received pursuant to this Part shall be deposited in the Residential Finance Regulatory Fund.

**Section 1055.470 Implementation Period**

- a) Mortgage lender Covered mortgage licensees shall have six months from the effective date of this Part to comply with the requirements of this Part.
- b) For covered mortgage licensees that made 100 or fewer home mortgage loans in the State in the last calendar year, ~~t~~The Secretary shall not cause an examination to be initiated under the ILCRA or this Part for one year after the implementation period of subsection (a) of this Section ends; provided that, the Secretary may conduct an examination at any time upon finding (i) the mortgage lender covered mortgage licensee has been found to be in "substantial noncompliance" with another state's Community Reinvestment Act, (ii) substantial evidence of

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discriminatory or other illegal credit practices, or (iii) the Secretary otherwise finds sufficient cause.

- c) For purposes of Section 1055.450 of this Part, with regard to the timing of the initial examination of a ~~mortgage lender~~covered mortgage licensee under ILCRA, the “most recent prior exam under the ILCRA” shall be read as the most recent examination by an Other State Regulator pursuant to that state’s Community Reinvestment Act.

**Section 1055.480 Enforcement**

Failure to comply with any requirement under the ILCRA, this Part or other law referenced in the ILCRA, shall be grounds for enforcement actions as authorized under the ILCRA and under the Residential Mortgage License Act of 1987. Any such failure to comply with a requirement of the ILCRA may also be grounds for referral to law enforcement or an administrative authority with jurisdiction over the subject matter. In addition to any other action authorized by law, the Secretary may enter agreed orders, stipulations or settlement agreements for the purpose of resolving any such failure to comply.

**1055.APPENDIX A Ratings**

- a) *Ratings in general.*
- 1) In assigning a rating, the Secretary evaluates a ~~mortgage lender~~covered mortgage licensee’s performance under the applicable performance criteria in this Part, in accordance with Sections 1055.210 and 1055.240, which provide for adjustments on the basis of evidence of discriminatory or other illegal credit practices.
- 2) A ~~mortgage lender~~covered mortgage licensee’s performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The ~~mortgage lender~~covered mortgage licensee’s overall performance, however, must be consistent with safe and sound lending practices and generally with the appropriate rating profile as follows.
- b) *~~Mortgage lender~~Covered mortgage licensees evaluated under the lending and service tests.*

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- 1) *Lending performance rating.* The Secretary assigns each ~~mortgage lendercovered mortgage licensee~~'s lending performance one of the ~~five~~ four following ratings.
  - A) *Outstanding.* The Secretary rates a ~~mortgage lendercovered mortgage licensee~~'s performance "outstanding" if, in general, it demonstrates:
    - i) An excellent geographic distribution of loans in the State;
    - ii) An excellent distribution of loans among individuals of different income levels, given the product lines offered by the ~~mortgage lendercovered mortgage licensee~~;
    - iii) An excellent record of serving the mortgage credit needs of highly economically disadvantaged areas in the State and low-income individuals, including loans to assist existing low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the ~~mortgage lendercovered mortgage licensee~~'s history with similarly situated borrowers, consistent with safe and sound operations;
    - iv) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the mortgage credit needs of low- and moderate-income individuals or geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes;
    - v) Mortgage products demonstrate an excellent suitability for low- and moderate-income individuals;
    - vi) It plays a leadership role in working with delinquent mortgage loan borrowers to facilitate a successful resolution of the delinquency, including a substantial number of loan modifications in a timely manner and which are effective in preventing subsequent defaults or foreclosures;

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- vii) There is no evidence of loans that show an undue concentration and a systematic pattern of lending, including early payment defaults, resulting in the loss of affordable housing units; ~~and~~
- viii) An excellent record relative to fair lending policies and practices; and
- ix) An excellent distribution of loans among individuals of different racial or other protected characteristics in areas, if any, particularly in parts of its assessment area, identified as exhibiting significant disparities by race or other protected characteristics in access to lending products and services by a Disparity Study incorporated into the examination process under section 345.210(e) as compared to the baseline distributions in those areas as identified by the study.

B) *Satisfactory*. The Secretary rates a ~~mortgage lender covered mortgage licensee~~'s performance "satisfactory" if, in general, it demonstrates:

- i) An adequate geographic distribution of loans in the State;
- ii) An adequate distribution of loans among individuals of different income levels, given the product lines offered by the ~~mortgage lender covered mortgage licensee~~;
- iii) An adequate record of serving the mortgage credit needs of highly economically disadvantaged areas in the State and low-income individuals, including loans to assist existing low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the ~~mortgage lender covered mortgage licensee~~'s history with similarly situated borrowers consistent with safe and sound operations;
- iv) Limited use of innovative or flexible lending practices in a safe and sound manner to address the mortgage credit needs of low- and moderate-income individuals or

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geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes;

- v) Mortgage products demonstrate an adequate suitability for low- and moderate-income individuals;
- vi) Its efforts are adequate in working with delinquent mortgage loan borrowers to facilitate a successful resolution of the delinquency, including an adequate number of loan modifications completed in a prompt manner and which are effective in preventing subsequent defaults or foreclosures;
- vii) There is no evidence of loans that show an undue concentration and a systematic pattern of lending, including early payment defaults, resulting in the loss of affordable housing units; and
- viii) An adequate record relative to fair lending policies and practices.

C) *Needs to improve.* The Secretary rates a ~~mortgage lender~~covered mortgage licensee's performance "needs to improve" if, in general, it demonstrates:

- i) A poor geographic distribution of loans, particularly to low- and moderate-income geographies, in the State;
- ii) A poor distribution of loans among individuals of different income levels, given the product lines offered by the ~~mortgage lender~~covered mortgage licensee;
- iii) A poor record of serving the mortgage credit needs of highly economically disadvantaged areas in the State and low-income individuals, including loans to assist existing low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the ~~mortgage lender~~covered mortgage licensee's history with

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similarly situated borrowers consistent with safe and sound operations;

- iv) Little use of innovative or flexible lending practices in a safe and sound manner to address the mortgage credit needs of low- and moderate-income individuals or geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes;
- v) Mortgage products demonstrate a poor suitability for low- and moderate-income individuals;
- vi) Its efforts are poor in working with delinquent mortgage loan borrowers to facilitate a successful resolution of the delinquency, including slow responses to requests for modification with few loan modifications completed or for which modifications are not effective in preventing subsequent defaults or foreclosures;
- vii) There is possible evidence of loans that show an undue concentration and a systematic pattern of lending, including early payment defaults, resulting in the loss of affordable housing units; and
- viii) A poor record relative to fair lending policies and practices.

D) *Substantial noncompliance.* The Secretary rates a ~~mortgage lendercovered mortgage licensee~~'s performance as being in "substantial noncompliance" if, in general, it demonstrates:

- i) A very poor geographic distribution of loans, particularly to low- and moderate-income geographies, in the State;
- ii) A very poor distribution of loans among individuals of different income levels given the product lines offered by the ~~mortgage lendercovered mortgage licensee~~;
- iii) A very poor record of serving the mortgage credit needs of highly economically disadvantaged areas in the State and low-income individuals, including loans to assist existing



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low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods, at rates and terms that are reasonable considering the mortgage lendercovered mortgage licensee's history with similarly situated borrowers consistent with safe and sound operations;

- iv) No use of innovative or flexible lending practices in a safe and sound manner to address the mortgage credit needs of low- and moderate-income individuals or geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes;
- v) Mortgage products are unsuitable for low- and moderate-income individuals;
- vi) It fails to work with delinquent mortgage loan borrowers to facilitate a successful resolution of the delinquency, including no response to requests for loan modifications or modifications which are ineffective in preventing subsequent defaults or foreclosures;
- vii) Origination of loans that show an undue concentration and a systematic pattern of lending, including early payment defaults, resulting in the loss of affordable housing units; and
- viii) A very poor record relative to fair lending policies and practices.

2) *Service performance rating.* The Secretary assigns each mortgage lendercovered mortgage licensee's service performance one of the ~~five~~ four following ratings.

- A) *Outstanding.* The Secretary rates a mortgage lendercovered mortgage licensee's service performance "outstanding" if, in general, the mortgage lendercovered mortgage licensee demonstrates:

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- i) It is a leader in providing community development services;
  - ii) Its service delivery systems are readily accessible to geographies and individuals of different income levels in the State;
  - iii) To the extent changes have been made, its record of opening and closing additional full-service offices has improved the accessibility of its delivery systems, particularly in low- and moderate-income geographies or to low- and moderate-income individuals; ~~and~~
  - iv) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of the State, particularly low- and moderate-income geographies or low- and moderate-income individuals; ~~and~~
  - v) Excellent performance in the above criteria in areas, if any, identified as exhibiting significant disparities by race or other protected characteristics in access to community development services by a Disparity Study incorporated into the examination process under section 345.210(g) as compared to the baseline performance levels in those areas as identified by the study.
- B) *Satisfactory.* The Secretary rates a ~~mortgage lender covered mortgage licensee~~'s service performance "satisfactory" if, in general, the ~~mortgage lender covered mortgage licensee~~ demonstrates:
- i) It provides an adequate level of community development services;
  - ii) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in the State;
  - iii) To the extent changes have been made, its record of opening and closing additional full-service offices has generally not adversely affected the accessibility of its

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delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals; and

- iv) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences geographies or individuals, particularly low- and moderate-income geographies and low- and moderate-income individuals.

C) *Needs to improve.* The Secretary rates a ~~mortgage lendercovered mortgage licensee~~'s service performance "needs to improve" if, in general, the ~~mortgage lendercovered mortgage licensee~~ demonstrates:

- i) It provides a limited level of community development services;
- ii) Its service delivery systems are unreasonably inaccessible to portions of the State, particularly to low- and moderate-income geographies or to low- and moderate-income individuals;
- iii) To the extent changes have been made, its record of opening and closing additional full-service offices has adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies or to low- and moderate-income individuals; and
- iv) Its services (including, where appropriate, business hours) vary in a way that inconveniences geographies or individuals, particularly low- and moderate-income geographies or low- and moderate-income individuals.

D) *Substantial noncompliance.* The Secretary rates a ~~mortgage lendercovered mortgage licensee~~'s service performance as being in "substantial noncompliance" if, in general, the ~~mortgage lendercovered mortgage licensee~~ demonstrates:

- i) It provides few, if any, community development services;

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- ii) Its service delivery systems are unreasonably inaccessible to significant portions of the State, particularly to low- and moderate-income geographies or to low- and moderate-income individuals;
  - iii) To the extent changes have been made, its record of opening and closing additional full-service offices has significantly adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies or to low- and moderate-income individuals; and
  - iv) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences geographies or individuals, particularly low- and moderate-income geographies or low- and moderate-income individuals.
- 3) *Other eligible criteria for an outstanding rating.* A ~~mortgage lendercovered mortgage licensee~~ that achieves at least a “satisfactory” rating under both the lending and service tests may warrant consideration for an overall rating of “outstanding”. In assessing whether a ~~mortgage lendercovered mortgage licensee~~’s performance is “outstanding”, the Secretary will also consider the ~~mortgage lendercovered mortgage licensee~~’s performance in making qualified investments and community development loans to the extent authorized under law.

**1055.APPENDIX B CRA Notice**

- a) Notice for main offices of ~~mortgage lendercovered mortgage licensees~~.

Community Reinvestment Act Notice

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary of the Department of Financial and Professional Regulation (Secretary) evaluates our record of helping to meet the lending needs of this community consistent with safe and sound operations. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA, including, for example, information about our additional full-service office(s), such as

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their location and services provided at them; the public section of our most recent ILCRA Performance Evaluation, prepared by the Secretary; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Secretary publishes a nationwide list of the mortgage lender covered mortgage licensees that are scheduled for ILCRA examination in that quarter. This list is available from the Secretary at 320 West Washington Street, 3<sup>rd</sup> Floor, Springfield, IL 62786 and at 555 West Monroe Street, Suite 500, Chicago, IL 60661. You may send written comments about our performance in helping to meet community lending needs to (name and address of official at mortgage lender covered mortgage licensee) and the Secretary. You may also submit comments electronically through the Department's Web site at <https://idfpr.illinois.gov/Admin/CRA.asp>. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary.

- b) Notice for additional full-service offices.

#### Illinois Community Reinvestment Act Notice

Under the Illinois Community Reinvestment Act (ILCRA), the Secretary evaluates our record of helping to meet the lending needs of this community consistent with safe and sound operations. The Secretary also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the ILCRA. You may review today the public section of our most recent ILCRA evaluation, prepared by the Secretary, and a list of services provided at this additional full-service office. You may also have access to the following additional information, which we will make available to you at this additional full-service office within five calendar days after you make a request to us: (1) a map showing the assessment area containing this additional full-service office, which is the area in which the Secretary evaluates our ILCRA performance in this community; (2) information about our additional full-service offices in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our ILCRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

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[At least 30 days before the beginning of each quarter, the Secretary publishes a nationwide list of the mortgage lender covered mortgage licensees that are scheduled for ILCRA examination in that quarter. This list is available from the Secretary. You may send written comments about our performance in helping to meet community credit needs to (name and address of official at mortgage lender covered mortgage licensee) and the Secretary. You may also submit comments electronically through the Department's Web site at <https://idfpr.illinois.gov/Admin/CRA.asp>. Your letter, together with any response by us, will be considered by the Secretary in evaluating our ILCRA performance and may be made public.

You may ask to look at any comments received by the Secretary. You may also request from the Secretary an announcement of our applications covered by the ILCRA filed with the Secretary.