209 CMR 54.00: MORTGAGE LENDER COMMUNITY INVESTMENT

Section

54.11: Purposes and Scope
54.12: Definitions

54.21: Performance Tests, Standards, and Ratings, in General
54.22: Lending Test
54.23: Service Test
54.25: Assigned Ratings
54.26: Effect of Record of Performance on Applications

54.42: Data Collection and Reporting
54.43: Content and Availability of Public Information
54.45: Publication of Planned Examination Schedule
54.46: Alternative Examination Procedures

54.61: Ratings

54.11: Purposes and Scope

(1) Purposes. 209 CMR 54.00 is intended to carry out the mortgage lender community investment purposes of M.G.L. c. 255E, § 8 by establishing the framework and criteria by which the Commissioner assesses a mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth, including low- and moderate-income neighborhoods and individuals, consistent with the safe and sound operation of the mortgage lender, and by providing that the Commissioner takes that record into account in considering certain applications pursuant to 209 CMR 54.26.

(2) Scope.

(a) General. 209 CMR 54.00 applies to all mortgage lenders as defined in 209 CMR 54.12.

(b) Advisory Rulings. Each official interpretation by the Federal Financial Institutions Examination Council (FFIEC) or appropriate federal banking regulatory agency of the regulations issued under the Community Reinvestment Act (12 USC 2901) that is similar in substance to a provision of 209 CMR 54.00 shall, until rescinded by the FFIEC, be deemed by the Commissioner to be an advisory ruling issued under M.G.L. c. 30A, § 8; provided, however, that the Commissioner may reject an interpretation of the FFIEC or appropriate federal banking regulatory agency. The Commissioner may provide such adjustments and exceptions, as necessary, to any interpretation to fit the unique circumstances of licensed mortgage lenders.

54.12: Definitions

For purposes of 209 CMR 54.00, the following definitions apply:

Area Median Income:

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

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

Branch. A staffed facility licensed as a branch under M.G.L. c. 255E and 209 CMR 42.13: *Office Locations*.

Commissioner. The Commissioner of Banks.

Commonwealth. The Commonwealth of Massachusetts.

Community Development:

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

54.12: continued

(b) community services targeted to low- and moderate-income individuals;
(c) Activities that revitalize or stabilize:
1. Low- or moderate-income geographies;
2. Designated disaster areas; or
3. 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
4. Any other such area as determined by the Commissioner based on:
a. Rates of poverty, unemployment, and population loss; or
b. 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:
(a) has as its primary purpose community development; and
(b) 1. has not been reported or collected by the mortgage lender for consideration in the mortgage lender'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
2. benefits the Commonwealth or a broader regional area that includes the Commonwealth.

Community Development Service:
(a) has as its primary purpose community development; and
(b) is related to the provision of financial services, including technical services.

Geography. 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 The Consumer Financial Protection Bureau's implementing regulations found at 12 CFR 203.

Home Mortgage Loan. A Home Improvement Loan or a Home Purchase Loan as defined in 12 CFR 203.2 (the Home Mortgage Disclosure Act) or a home equity loan or any other extension of credit secured by a residence of the borrower for personal, family, or household purposes.

Highly Economically Disadvantaged Areas. Economically distressed areas designated pursuant to 26 USC 1391.

Income Level:
(a) 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.
(b) 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.
(c) 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.
(d) 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. A home mortgage loan is located in the geography where the property to which the loan relates is situated.

Mortgage Lender. A mortgage lender, licensed under M.G.L. c. 255E, § 2, that has made 50 or more home mortgage loans in the Commonwealth in the last calendar year reportable under the Home Mortgage Disclosure Act.

54.12: continued

MSA. A metropolitan statistical area as defined by the Director of the Office of Management and Budget.

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

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

(b) 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 Commonwealth;

(c) 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 Commonwealth; and

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

54.21: Performance Tests, Standards, and Ratings, in General

(1) Performance Tests and Standards. The Commissioner assesses the MLCI performance of a mortgage lender in an examination as follows:

Mortgage Lender Performance Standards. The Commissioner applies the lending and service tests, as provided in 209 CMR 54.22 and 54.23 in evaluating the performance of a mortgage lender. However, a mortgage lender that achieves at least a "satisfactory" rating under both the lending and service tests may warrant consideration for an overall rating of "high satisfactory" or "outstanding" depending on the mortgage lender's performance in making qualified investments and community development loans to the extent authorized under law, in accordance with 209 CMR 54.61(2)(c).

(2) Performance Context. The Commissioner applies the tests and standards in 209 CMR 54.21(1) in the context of:

(a) demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to the Commonwealth;

(b) any information about lending and service opportunities in the Commonwealth maintained by the mortgage lender or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(c) the mortgage lender's product offerings and business strategy as determined from data provided by the mortgage lender in the Commonwealth;

(d) the mortgage lender's capacity and constraints, including the size and financial condition of the mortgage lender, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the mortgage lender's ability to provide lending or services in the Commonwealth;

(e) the mortgage lender's past performance and the performance of similarly situated lenders in the Commonwealth; and

(f) any other information deemed relevant by the Commissioner.

(3) Assigned Ratings. The Commissioner assigns to a mortgage lender one of the following five ratings pursuant to 209 CMR 54.25 and 54.61: "outstanding"; "high satisfactory"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in M.G.L. c. 255E, § 8. The rating assigned by the Commissioner reflects the mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the mortgage lender.

(4) Safe and Sound Operations. 209 CMR 54.00 does not require a mortgage lender to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Commissioner anticipates mortgage lenders can meet the standards of 209 CMR 54.00 with safe and sound loans, investments, and services on which the mortgage lender can expect to make a profit. Mortgage lenders 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.

54.22: Lending Test

(1) Scope of Test.

(a) The lending test evaluates a mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth through its lending activities by considering a mortgage lender's home mortgage and community development lending.

(b) The Commissioner considers originations and purchases of loans as reported by the mortgage lender under HMDA. The Commissioner will also consider any other loan data the mortgage lender may choose to provide.

(2) Performance Criteria. The Commissioner evaluates a mortgage lender's performance pursuant to the following criteria:

(a) Geographic Distribution. The geographic distribution of the mortgage lender's home mortgage loans, based on the loan location, including:

1. the dispersion of lending in the Commonwealth and whether lending arbitrarily excludes low- and moderate-income geographies; and

2. the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the Commonwealth;

(b) Borrower Characteristics. The distribution of the mortgage lender's home mortgage loans based on borrower characteristics, including 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 lender's history with similarly situated borrowers;

(c) Innovative or Flexible Lending Practices. The mortgage lender'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 Commissioner shall also consider the availability of mortgage loan products that are suitable for such low- and moderate-income individuals;

(d) Loss Mitigation Efforts. The mortgage lender'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 or such modifications, and the extent to which such modifications are effective in preventing subsequent defaults or foreclosures;

(e) Fair Lending. The mortgage lender's performance relative to fair lending policies and practices pursuant to written policies and directives issued by the Commissioner; and

(f) Loss of Affordable Housing. The mortgage lender'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.

(3) Third-party Lending. No mortgage lender may include a loan origination or loan purchase for consideration if another mortgage lender or depository institution claims the same loan origination or purchase under 209 CMR 54.00 or the state or federal Community Reinvestment Act.

(4) Lending Performance Rating. The Commissioner rates a mortgage lender's performance as provided in 209 CMR 54.61.

54.23: Service Test

(1) Scope of Test. The service test evaluates a mortgage lender's record of helping to meet the mortgage credit needs in the Commonwealth by analyzing both the availability and effectiveness of a mortgage lender's systems for delivering mortgage loan products and the extent and innovativeness of its community development services. A mortgage lender that has made fewer than 100 home mortgage loans in the Commonwealth in the last calendar year shall not be subjected to the service test outlined in 209 CMR 54.23.

(2) Area(s) Benefited. Community development services must benefit the Commonwealth or a broader regional area that includes the Commonwealth.

54.23: continued

(3) Performance Criteria - Community Development Services. The Commissioner evaluates community development services pursuant to the following criteria:

(a) the extent to which the mortgage lender provides community development services; and

(b) the innovativeness and responsiveness of community development services.

(4) Performance Criteria - Mortgage Lending Services. The Commissioner evaluates the availability and effectiveness of a mortgage lender's systems for delivering mortgage lending services, pursuant to the following criteria:

(a) 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 lender's branches among low-, moderate-, middle-, and upper-income geographies; and

(b) 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.

(5) Service Performance Rating. The Commissioner rates a mortgage lender's service performance as provided in 209 CMR 54.61.

54.25: Assigned Ratings

(1) Ratings in General. Subject to 209 CMR 54.25(2) and (3), the Commissioner assigns to a mortgage lender a rating of "outstanding," "high satisfactory," "satisfactory," "needs to improve," or "substantial noncompliance" based on the mortgage lender's performance under the lending and service tests.

(2) Lending Test. No mortgage lender may receive an assigned overall rating of "satisfactory" or higher unless it receives a rating of at least "satisfactory" on the lending test.

(3) Effect of Evidence of Discriminatory or Other Illegal Credit Practices. Evidence of discriminatory or other illegal credit practices adversely affects the Commissioner's evaluation of mortgage lender's performance. In determining the effect on the mortgage lender's assigned rating, the Commissioner considers the nature and extent of the evidence, the policies and procedures that the mortgage lender has in place to prevent discriminatory or other illegal credit practices, any corrective action that the mortgage lender has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, the mortgage lender'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 209 CMR 54.22, evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes but is not limited to:

(a) Discrimination against applicants on a prohibited basis in violation, for example of the Equal Credit Opportunity Act or Fair Housing Act or M.G.L. c. 151B;

(b) Violations of M.G.L. c. 183C: *Predatory Home Loan Practices*;

(c) Violations of § 5 of the Federal Trade Commission Act or M.G.L. c. 93A, including 940 CMR: *Office of the Attorney General*;

(d) Violations of § 8 of the Real Estate Settlement Procedures Act; and

(e) Violations of the provisions of M.G.L. c. 140D regarding a consumer's right of rescission or other violations of M.G.L. c. 140D and 209 CMR 32.00: *Truth in Lending*.

54.26: Effect of Record of Performance on Applications

(1) Performance. Among other factors, the Commissioner takes into account the record of performance of each mortgage lender, under the mortgage lender community investment provisions of M.G.L. c. 255E, § 8 when submitting applications for the following:

54.26: continued

(a) renewal of a license to conduct business in the Commonwealth by all mortgage lenders;
(b) establishment or renewal of any branch by all mortgage lenders;
(c) any merger with or acquisition of a mortgage lender or mortgage broker by a mortgage lender or any other proposed change in control of a mortgage lender; and
(d) any other approval of the Commissioner, provided that there are no other countervailing financial safety and soundness or other policy considerations.

(2) Interested Parties. In considering a record of performance in applications described in 209 CMR 54.26(1), the Commissioner takes into account any views expressed by interested parties that are submitted.

(3) Denial, Deferral, or Conditional Approval of Application. A mortgage lender's record of performance may be the basis for denying, deferring, or conditioning approval of an application listed in 209 CMR 54.26(1).

54.42: Data Collection and Reporting

(1) As part of its examination, the Commissioner shall require a mortgage lender to collect and report for examination purposes additional data fields beyond what is required under HMDA. The mortgage lender 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.

(2) Optional Data Collection and Maintenance. At its option, a mortgage lender may provide other information concerning its lending performance, including additional loan distribution data.

54.43: Content and Availability of Public Information

(1) Information Available to the Public. A mortgage lender shall maintain the following information to be made available to the public upon request:
(a) 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's performance in helping to meet the mortgage credit needs of the Commonwealth, and any response to the comments by the mortgage lender, 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 or publication of which would violate specific provisions of law;
(b) a copy of the public section of the mortgage lender's most recent Performance Evaluation prepared by the Commissioner; and
(c) a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the mortgage lender for each of the prior two calendar years.

(2) Copies. Upon request, a mortgage lender 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 209 CMR 54.43(1). The mortgage lender may charge a reasonable fee not to exceed the cost of copying and mailing, if applicable.

54.45: Publication of Planned Examination Schedule

The Commissioner publishes at least 30 days in advance of the beginning of each calendar quarter a list of mortgage lenders scheduled for examinations in that quarter.

54.46: Alternative Examination Procedures

The Commissioner shall establish alternative examination procedures for mortgage lenders which were rated "outstanding" or "high satisfactory" as of their most recent evaluation. The purpose of such alternative procedures shall be to reduce the cost to mortgage lenders. The alternative procedures shall in no way limit public participation.

54.61: Ratings

(1) Ratings in General.

(a) In assigning a rating, the Commissioner evaluates a mortgage lender's performance under the applicable performance criteria in 209 CMR 54.00, in accordance with 209 CMR 54.21, and 54.25, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(b) A mortgage lender'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's overall performance, however, must be consistent with safe and sound lending practices and generally with the appropriate rating profile as follows.

(2) Mortgage Lenders Evaluated under the Lending and Service Tests.

(a) Lending Performance Rating. The Commissioner assigns each mortgage lender's lending performance one of the five following ratings.

1. Outstanding. The Commissioner rates a mortgage lender's performance "outstanding" if, in general, it demonstrates:

a. An excellent geographic distribution of loans in the Commonwealth;

b. An excellent distribution of loans among individuals of different income levels, given the product lines offered by the mortgage lender;

c. An excellent record of serving the mortgage credit needs of highly economically disadvantaged areas in the Commonwealth 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's history with similarly situated borrowers, consistent with safe and sound operations;

d. 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;

e. Mortgage products demonstrate an excellent suitability for low- and moderate-income individuals;

f. 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;

g. 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

h. An excellent record relative to fair lending policies and practices.

2. High Satisfactory. The Commissioner rates a mortgage lender's performance "high satisfactory" if, in general, it demonstrates:

a. A good geographic distribution of loans in the Commonwealth;

b. A good distribution of loans among individuals of different income levels given the product lines offered by the mortgage lender;

c. A good record of serving the mortgage credit needs of highly economically disadvantaged areas in the Commonwealth 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's history with similarly situated borrowers consistent with safe and sound operations;

d. 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;

e. Mortgage products demonstrate a good suitability for low- and moderate-income individuals;

f. Its efforts are substantial in working with delinquent mortgage loan borrowers to facilitate a successful resolution of the delinquency, including frequent and swift loan modifications which are effective in preventing subsequent defaults or foreclosures;

54.61: continued

g. 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

h. A good record relative to fair lending policies and practices.

3. Satisfactory. The Commissioner rates a mortgage lender's performance "satisfactory" if, in general, it demonstrates:

a. An adequate geographic distribution of loans in the Commonwealth;

b. An adequate distribution of loans among individuals of different income levels, given the product lines offered by the mortgage lender;

c. An adequate record of serving the mortgage credit needs of highly economically disadvantaged areas in the Commonwealth 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's history with similarly situated borrowers consistent with safe and sound operations;

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

e. Mortgage products demonstrate an adequate suitability for low- and moderate-income individuals;

f. 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;

g. 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

h. An adequate record relative to fair lending policies and practices.

4. Needs to Improve. The Commissioner rates a mortgage lender's performance "needs to improve" if, in general, it demonstrates:

a. A poor geographic distribution of loans, particularly to low- and moderate-income geographies, in the Commonwealth;

b. A poor distribution of loans among individuals of different income levels, given the product lines offered by the mortgage lender;

c. A poor record of serving the mortgage credit needs of highly economically disadvantaged areas in the Commonwealth 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's history with similarly situated borrowers consistent with safe and sound operations;

d. 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;

e. Mortgage products demonstrate a poor suitability for low- and moderate-income individuals;

f. 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;

g. 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

h. A poor record relative to fair lending policies and practices.

5. Substantial Noncompliance. The Commissioner rates a mortgage lender's performance as being in "substantial noncompliance" if, in general, it demonstrates:

a. A very poor geographic distribution of loans, particularly to low- and moderate-income geographies, in the Commonwealth;

54.61: continued

b. A very poor distribution of loans among individuals of different income levels given the product lines offered by the mortgage lender;

c. A very poor record of serving the mortgage credit needs of highly economically disadvantaged areas in the Commonwealth 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's history with similarly situated borrowers consistent with safe and sound operations;

d. 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;

e. Mortgage products are unsuitable for low- and moderate-income individuals;

f. 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;

g. 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

h. A very poor record relative to fair lending policies and practices.

(b) Service Performance Rating. The Commissioner assigns each mortgage lender's service performance one of the five following ratings.

1. Outstanding. The Commissioner rates a mortgage lender's service performance "outstanding" if, in general, the mortgage lender demonstrates:

a. It is a leader in providing community development services;

b. Its service delivery systems are readily accessible to geographies and individuals of different income levels in the Commonwealth;

c. To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- and moderate-income geographies or to low- and moderate-income individuals; and

d. Its services (including, where appropriate, business hours) are tailored to the convenience and needs of the Commonwealth, particularly low- and moderate-income geographies or low- and moderate-income individuals.

2. High Satisfactory. The Commissioner rates a mortgage lender's service performance "high satisfactory" if, in general, the mortgage lender demonstrates:

a. It provides a relatively high level of community development services;

b. Its service delivery systems are accessible to geographies and individuals of different income levels in the Commonwealth;

c. To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals; and

d. 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.

3. Satisfactory. The Commissioner rates a mortgage lender's service performance "satisfactory" if, in general, the mortgage lender demonstrates:

a. It provides an adequate level of community development services;

b. Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in the Commonwealth;

c. To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals; and

d. 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.

54.61: continued

4. Needs to Improve. The Commissioner rates a mortgage lender's service performance "needs to improve" if, in general, the mortgage lender demonstrates:

a. It provides a limited level of community development services;

b. Its service delivery systems are unreasonably inaccessible to portions of the Commonwealth, particularly to low- and moderate-income geographies or to low- and moderate-income individuals;

c. To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies or to low- and moderate- income individuals; and

d. 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.

5. Substantial Noncompliance. The Commissioner rates a mortgage lender's service performance as being in "substantial noncompliance" if, in general, the mortgage lender demonstrates:

a. It provides few, if any, community development services;

b. Its service delivery systems are unreasonably inaccessible to significant portions of the Commonwealth, particularly to low- and moderate-income geographies or to low- and moderate-income individuals;

c. To the extent changes have been made, its record of opening and closing branches 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

d. 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.

(c) Other Eligible Criteria for a High Satisfactory or an Outstanding Rating. A mortgage lender that achieves at least a "satisfactory" rating under both the lending and service tests may warrant consideration for an overall rating of "high satisfactory" or "outstanding". In assessing whether a mortgage lender's performance is "high satisfactory" or "outstanding", the Commissioner will also consider the mortgage lender's performance in making qualified investments and community development loans to the extent authorized under law.

REGULATORY AUTHORITY

209 CMR 54.00: M.G.L. c. 255E, § 8.