

1 Department of Commerce

2

3 Adopted Permanent Rules Relating to Developmental Lending and
4 Investment Performance Ratings of Financial Institutions Owned
5 by Interstate Holding Companies

6

7 Rules as Adopted

8 2655.0700 APPLICABILITY AND SCOPE.

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

14 2655.0800 PURPOSE.

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

21 2655.0900 DEFINITIONS.

22 Subpart 1. Scope. For the purpose of parts 2655.0700 to
23 2655.1300, the following terms have the meanings given them.

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

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

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

34 Subp. 5. Commissioner. "Commissioner" means the

1 commissioner of the Department of Commerce.

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

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

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

- 13 A. low and moderate income housing;
- 14 B. operating loans for family farmers;
- 15 C. loans made in distressed areas;
- 16 D. minority-owned and woman-owned businesses;
- 17 E. alternative energy and energy conservation
18 practices;
- 19 F. community development corporations;
- 20 G. loans made within Indian reservations;
- 21 H. student education loans; and
- 22 I. any other specifically defined class of people,
23 businesses, or projects which meet the standards under Minnesota
24 Statutes, section 645.445, subdivision 5, for socially or
25 economically disadvantaged persons, projects, or businesses.

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

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

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

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

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

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

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

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

25 A. regulations adopted by the Farmers Home
26 Administration; or

27 B. section 8 of the United States Housing Act of
28 1937, and the regulation adopted under the act.

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

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

34 A. individuals located within a Minnesota zip code;

35 B. private profit or nonprofit corporations or
36 subsidiaries, or divisions of these corporations, located and

1 doing business within Minnesota;

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

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

7 Subp. 17. **Minority-owned business and woman-owned business.**

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

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

16 **2655.1000 FILING REQUIREMENTS.**

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

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

1 preceding calendar year.

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

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

10 (1) by purpose of loan for:

11 (a) machinery and equipment;

12 (b) crop inputs and harvest;

13 (c) livestock purchase and feed;

14 (d) where a combination of the above

15 purposes list by purpose to which a majority of proceeds were
16 devoted; and

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

19 (2) by the repayment terms of:

20 (a) demand;

21 (b) amortizing-installments;

22 (c) single payment; or

23 (d) revolving credit agreement.

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

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

29 (1) by purpose of loan for:

30 (a) purchase or maintenance of machinery,
31 equipment, furniture, and fixtures;

32 (b) financing inventory;

33 (c) cash flow, including accounts
34 receivable;

35 (d) improvements to commercial real estate;

36 or

- 1 (e) capitol or equity formation loans; and
2 (2) by the repayment terms of:
3 (a) demand;
4 (b) amortizing-installments;
5 (c) single payment; or
6 (d) revolving credit agreement.

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

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

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

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

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

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

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

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

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

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

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

11 (1) local development, redevelopment, and
12 rehabilitation projects or programs;

13 (2) programs or organizations which promote and
14 assist in the development and growth of small business in
15 Minnesota; and

16 (3) programs or organizations that address the
17 financial needs of minorities.

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

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

28 2655.1100 RATING CRITERIA.

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

33 A. the economic condition of the community or
34 communities to be served including, but not limited to,
35 population trends and area use for residential, commercial,

1 industrial, and agricultural purposes;

2 B. the social composition of the community or
3 communities to be served including the level of socially and
4 economically disadvantaged persons, families of low and moderate
5 income and low and moderate income housing, the number of women
6 18 to 60 years of age, and location of distressed areas;

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

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

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

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

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

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

26 2655.1200 REVIEW REPORTS.

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

35 A. activities conducted by the financial institution

1 to ascertain credit needs of its community, including the extent
2 of the financial institution's efforts to communicate with
3 members of its community regarding the credit services being
4 provided the financial institution;

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

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

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

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

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

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

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

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

34 Assessment of a financial institution's record of
35 performance, under this part, will be the basis for the
36 financial institution's rating under Minnesota Statutes, section

1 48.97, subdivision 3.

2 2655.1300 ANNUAL RATING.

3 Subpart 1. Community reinvestment assessment. Annually on
4 or before June 30, the department shall make a community
5 reinvestment assessment of each financial institution. The
6 assessment will be based upon information compiled under parts
7 2655.0700 to 2655.1300 or obtained from other sources, including
8 information obtained from state or federal banking regulators.
9 The commissioner shall prepare a written report summarizing the
10 results of the assessment and assign to each financial
11 institution a numerical rating based on a one to five scoring
12 system. Specifically, the numerical scores shall represent
13 performance assessments as follows:

- 14 A. excellent performance;
- 15 B. good performance;
- 16 C. satisfactory performance;
- 17 D. less than satisfactory performance; and
- 18 E. unsatisfactory performance.

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

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

35 B. "Good" means a financial institution has a very

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

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

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

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