**Section 1055.220 Lending Test**

a) Scope of test.

1) The lending test evaluates a covered mortgage licensee's record of helping to meet the mortgage credit needs of the State through its lending activities by considering a covered mortgage licensee's home mortgage and community development lending.

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

b) Performance criteria. The Secretary evaluates a covered 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 covered 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.

2) Borrower characteristics. The distribution of the covered mortgage licensee'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 covered mortgage licensee's history with similarly situated borrowers.

3) Innovative or flexible lending practices. The 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 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:

A) any credit assistance program expressly authorized by federal or state law for the benefit of an economically disadvantaged class of persons;

B) 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

C) any special purpose credit program offered by a for-profit organization, or in which that organization participates to meet special social needs, if it meets certain standards prescribed in 12 CFR 1002.8(a)(3)(i);

4) Loss mitigation efforts. The 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 the modifications, and the extent to which the modifications are effective in preventing subsequent defaults or foreclosures;

5) Fair lending. The 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 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.

c) Third-party lending. No covered mortgage licensee may include a loan origination or loan purchase for consideration if another covered mortgage licensee or depository institution claims the same loan origination or the same purchase under this Part or the State or federal Community Reinvestment Act.

d) Lending performance rating. The Secretary rates a covered mortgage licensee's performance as provided in Section 1055.APPENDIX A.